

## OVERVIEW

**AGENCY:** ENVIRONMENTAL PROTECTION AGENCY (EPA)

**TITLE:** FY14 Guidelines for Brownfields Cleanup Grants

**ACTION:** Request for Proposals

**RFP NO:** EPA-OSWER-OBLR-13-07

**CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NO.:** 66.818

**DATES:** Proposals may be sent through the U.S. Postal Service, commercial delivery service, or electronically through [www.grants.gov](http://www.grants.gov). Only one method should be used for the submission of the original, complete proposal package. Proposals sent through the U.S. Postal Service or via a commercial delivery service must be postmarked by January 22, 2014. Proposals sent electronically to [grants.gov](http://grants.gov) must be received by [grants.gov](http://grants.gov) by 11:59 p.m. Eastern Time on January 22, 2014. Please refer to Section IV.B, *Due Date and Mailing Instructions*, for further instructions.

**SUMMARY:** The Small Business Liability Relief and Brownfields Revitalization Act (“Brownfields Law”, P.L. 107-118) requires the U.S. Environmental Protection Agency (EPA) to publish guidance to assist applicants in preparing proposals for grants to assess and clean up brownfield sites. EPA’s Brownfields Program provides funds to empower states, communities, tribes, and nonprofits to prevent, inventory, assess, clean up, and reuse brownfield sites. EPA provides brownfields funding for three types of grants:

1. Brownfields Assessment Grants - provides funds to inventory, characterize, assess, and conduct planning (including cleanup planning) and community involvement related to brownfield sites.
2. Brownfields Revolving Loan Fund (RLF) Grants – provides funding for a grant recipient to capitalize a revolving fund and to make loans and provide subgrants to carry out cleanup activities at brownfield sites.
3. Brownfields Cleanup Grants - provides funds to carry out cleanup activities at a specific brownfield site owned by the applicant.

Under these guidelines, EPA is seeking proposals for **Cleanup Grants only**. If you are interested in requesting funding for Assessment or RLF funding, please refer to announcement EPA-OSWER-OBLR-13-05 (Assessment Grant guidelines) or EPA-OSWER-OBLR-13-06 (RLF Grant guidelines) posted separately on [www.grants.gov](http://www.grants.gov) and [www.epa.gov/brownfields](http://www.epa.gov/brownfields).

For the purposes of these guidelines, the term "grant" refers to the cooperative agreement that EPA will award to a successful applicant. Please refer to Section II.C. for a description of EPA's anticipated substantial involvement in the financial assistance agreements awarded under these guidelines.

EPA urges applicants to review the Frequently Asked Questions which can be found at [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf).

In addition, prior to naming a contractor or subawardee in your proposal please carefully review Section IV.E and F of these guidelines.

**FUNDING/AWARDS:** The total funding available under the national competitions for assessment, cleanup, and RLF grants is estimated at \$63.2 million subject to the availability of funds and other applicable considerations. EPA must expend 25 percent of the amount appropriated for brownfields grants on sites contaminated with petroleum. EPA anticipates awarding an estimated 269 grants among all three grant types. Under this announcement, EPA anticipates awarding an estimated 61 cleanup grants for an estimated \$14 million.

## CONTENTS BY SECTION

SECTION I - FUNDING OPPORTUNITY DESCRIPTION .....	3
I.A. Description of Grant .....	4
I.B. Uses of Grant Funds.....	5
I.C. EPA Strategic Plan Linkage.....	6
I.D. Livability Principles.....	6
I.E. Measuring Environmental Results: Anticipated Outputs/Outcomes .....	8
SECTION II - AWARD INFORMATION.....	8
II.A. What is the amount of available funding?.....	8
II.B. What is the project period for awards resulting from this solicitation?.....	9
II.C. Substantial Involvement .....	9
SECTION III - APPLICANT AND SITE ELIGIBILITY INFORMATION.....	9
III.A. Who Can Apply?.....	9
III.B. Site Eligibility .....	10
III.C. Threshold Criteria for Cleanup Grants.....	13
1. Applicant Eligibility.....	14
2. Letter from the State or Tribal Environmental Authority.....	14
3. Site Eligibility and Property Ownership Eligibility.....	15
4. Cleanup Authority and Oversight Structure .....	20
5. Cost Share .....	20
6. Community Notification .....	21
SECTION IV - PROPOSAL SUBMISSION INFORMATION .....	23
IV.A. How to Obtain a Proposal Package.....	23
IV.B. Due Date and Mailing Instructions .....	23
IV.C. Content and Form of Proposal Submission.....	24
IV.D. Intergovernmental Review.....	27
IV.E. Use of Funds to Make Subawards, Contract Services, or Fund Partnerships .....	27

IV.F. Evaluation of Subawardees and Contractors .....	27
IV.G. Confidential Business Information .....	28
IV.H. Management Fees .....	28
IV.I. Additional Voluntary Cost Share/Leveraging (See Section III.C.5 on cost share) .....	29
SECTION V - PROPOSAL REVIEW INFORMATION .....	29
V.A. Review and Selection Process.....	29
V.B. Ranking Criteria for Cleanup Grants.....	30
1. Community Need [15 points].....	30
2. Project Description and Feasibility of Success [30 points] .....	32
3. Community Engagement and Partnerships [15 points] .....	36
4. Project Benefits [15 points] .....	37
5. Programmatic Capability and Past Performance [20 points].....	38
V.C. Other Factors .....	41
V.D. Proposal Checklist for Cleanup Grants.....	42
SECTION VI - AWARD ADMINISTRATION INFORMATION .....	42
VI.A. Award Notices .....	42
VI.B. Administrative and National Policy Requirements.....	43
VI.C. Reporting Requirements .....	43
VI.D. Disputes .....	43
VI.E. Brownfields Programmatic Requirements .....	44
VI.F. Subaward and Executive Compensation Reporting .....	47
VI.G. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.....	47
VI.H. Website References in Solicitations .....	47
VI.I. Unfair Competitive Advantage .....	48
VI.J. Use of Funds .....	48
VI.K. Unpaid Federal Tax Liabilities and Felony Convictions for Non-Profit and For-Profit Organizations .....	48
SECTION VII – AGENCY CONTACTS .....	50
Appendix 1 Information on Sites Eligible for Brownfields Funding Under CERCLA §104(k) ...	51
Appendix 2 Grants.gov Proposal Submission Instructions .....	62
Appendix 3 Other Factors Checklist.....	65

## SECTION I - FUNDING OPPORTUNITY DESCRIPTION

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or the Superfund law) was amended by the Small Business Liability Relief and Brownfields Revitalization Act (Brownfields Law) to include section 104(k), which provides federal financial assistance for brownfields revitalization, including grants for assessment, cleanup, and RLF.

A **brownfield site is defined** as real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of hazardous substances, pollutants, contaminants, controlled substances, petroleum or petroleum products, or is mine-scarred land.

As described in Section V, proposals will be evaluated, among other factors, on the extent to which the applicant demonstrates: economic and environmental needs of the targeted

communities; a vision for the reuse and redevelopment of brownfield sites and the capability to achieve that vision; reasonable and eligible tasks; partnerships and leveraged resources to complete the project; incorporation of livability and sustainability principles and economic, environmental, health, and social benefits associated with the reuse and redevelopment of brownfield sites.

A critical part of EPA's assessment and cleanup efforts is to ensure that residents living in communities historically affected by economic disinvestment, health disparities, and environmental contamination have an opportunity to reap the benefits from brownfields redevelopment. EPA's Brownfields Program has a rich history rooted in environmental justice and is committed to helping communities revitalize brownfield properties, mitigate potential health risks, and restore economic vitality.

### **I.A. Description of Grant**

Cleanup grants provide funding to carry out cleanup activities at specific brownfield sites owned by the applicant. An applicant can apply for up to \$200,000 per brownfield site and can submit up to three site-specific cleanup proposals. Applicants that exceed the maximum number of proposals allowable for cleanup grants will be contacted, prior to review of any of the proposals by EPA, to determine which proposals the applicant will withdraw from the competition. A separate proposal must be submitted for each site. An applicant may request up to \$200,000 to address hazardous substances and/or petroleum contamination at a specified site. An applicant requesting both hazardous substance and petroleum cleanup funding at the **same site** must submit one proposal, which cannot exceed \$200,000 total. If the hazardous substance and petroleum contaminated areas of the site are distinguishable the proposal must indicate the dollar amount of funding requested for each type of contamination and respond to both the hazardous substance and petroleum eligibility questions in Section III.C.3, including the requirement to provide a petroleum determination letter. If the petroleum and hazardous substances are not easily distinguishable, the applicant must indicate which contaminant is predominant and respond to the appropriate site eligibility criteria. (Contact your Regional Coordinator listed in Section VII for more information). Properties eligible for hazardous substance funding are those properties with the presence of hazardous substances, pollutants, contaminants and properties that are contaminated with controlled substances or that are mine-scarred lands. Proposals must indicate the dollar amount of funding requested for each type of contamination. The performance period is three years for cleanup grants. For a list of certain grant and programmatic requirements refer to Section VI.

An applicant must be the sole owner of the site that is the subject of its cleanup grant proposal and must own the site by January 22, 2014 in order to be eligible to receive a cleanup grant. For the purposes of eligibility determinations in these guidelines only, the term "own" means fee simple title through a legal document, for example a recorded deed. EPA will find applicants that do not meet this requirement by January 22, 2014 ineligible. The grantee must maintain sole ownership of the site until the grant is closed out. Refer to threshold criterion Section III.C.1.b for additional information.

The Brownfields Law requires applicants to provide a 20 percent cost share for cleanup grants. For example, a \$200,000 cleanup grant will require a \$40,000 cost share. The cost share, which

may be in the form of a contribution of money, labor, material, or services, must be for eligible and allowable costs under the grant and cannot include administrative costs, as described in the Brownfields Frequently Asked Questions (FAQ) at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf). Applicants may request a waiver of the 20 percent cost share requirement based on hardship. EPA will consider hardship waiver requests on a case-by-case basis and will approve such requests on a limited basis. Refer to threshold criterion Section III.C.5 for additional information.

Cleanup grant applicants must have an ASTM E1903-11 Phase II site assessment report or equivalent site investigation report complete that indicates a basic understanding of what contaminants need to be cleaned up on the site, even if further Phase II assessment work is required prior to proposal submission. Refer to threshold criteria Section III.C.3.e. for additional information.

For more information on a range of brownfields topics, please refer to the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf). If you do not have access to the Internet, you can contact your Regional Coordinator listed in Section VII.

## **I.B. Uses of Grant Funds**

In addition to direct costs associated with the cleanup of a brownfield site, grant funds also may be used for the following activities:

1. Grant funds may be used for direct costs associated with programmatic management of the grant, such as required performance reporting, construction oversight, and environmental monitoring of cleanup work.

All costs charged to cleanup grants must be consistent with the applicable OMB Cost Circulars. The cost principles for universities and educational institutions are found at 2 CFR Part 220. The cost principles for governmental units are found at 2 CFR Part 225. The cost principles for nonprofit organizations are found at 2 CFR Part 230.

2. A local government (as defined in 40 CFR Part 31.3, *Local Government*) may use up to 10 percent of its grant funds for any of the following activities:
  - a. Health monitoring of populations exposed to hazardous substances, pollutants, or contaminants from the brownfield site;
  - b. Monitoring and enforcement of any institutional control used to prevent human exposure to any hazardous substance, pollutant, or contaminant from the brownfield site; and
  - c. Other related program development and implementation activities to effectively oversee cleanups described in an EPA-approved work plan.

The term local government does not include state or tribal governments but may include, among others, public housing authorities, school districts, and councils of governments.

3. A portion of the brownfields grant or loan may be used to purchase environmental insurance.

Grant funds cannot be used for the following activities:

1. Administrative costs, such as indirect costs of grant administration, with the exception of financial and performance reporting costs.
2. Proposal preparation costs.

See the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf) for additional information on ineligible grant activities and ineligible costs.

### **I.C. EPA Strategic Plan Linkage**

EPA's Strategic Plan defines goals, objectives and sub-objectives for protecting human health and the environment. All three Brownfields grant types will support progress toward Goal 3 (Cleaning Up Communities and Advancing Sustainable Development), Objective 3.1 (Promote Sustainable and Livable Communities). Specifically, these grants will help sustain, clean up and restore communities and the ecological systems that support them by providing funds to assess and clean up brownfield sites. EPA will negotiate work plans with recipients to collect information about the hazardous substances, pollutants and petroleum contaminants addressed and the amount of land made safe for communities' economic and ecological use.

(View EPA's Strategic Plan on the Internet at <http://www2.epa.gov/planandbudget/strategicplan> and view EPA's Order 5700.7A1 at [http://www.epa.gov/ogd/epa\\_order\\_5700\\_7a1.pdf](http://www.epa.gov/ogd/epa_order_5700_7a1.pdf) )

### **I.D. Livability Principles**

Link to the HUD-DOT-EPA Partnership for Sustainable Communities  
EPA's Brownfields Assessment, Revolving Loan, and Cleanup (ARC) Program is being carried out under the Partnership for Sustainable Communities (PSC) among the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Transportation (DOT), and EPA. The PSC was conceived to advance development patterns and infrastructure investment programs that achieve improved economic prosperity, healthy, environmentally sustainable, and opportunity-rich communities for all Americans, regardless of race or income. Recognizing the fundamental role that public investment plays in achieving these outcomes, the Administration charged three agencies whose programs impact the physical form of communities—HUD, DOT, and EPA—to coordinate and incorporate the Livability Principles into their policies and funding programs to the maximum degree possible. The Livability Principles can be found at [www.sustainablecommunities.gov](http://www.sustainablecommunities.gov) and include: (1) provide more transportation choices, (2) promote equitable, affordable housing, (3) increase economic competitiveness, (4) support existing communities, (5) leverage federal investment, and (6) value communities and neighborhoods.

#### Linking BF Assessment, Revolving Loan Fund and Cleanup Approaches to Sustainable and Equitable Development Outcomes

Applicants should incorporate sustainable and equitable cleanup and reuse approaches into their proposed Brownfields Assessment, Revolving Loan Fund, and Cleanup (BF ARC) project. The

Agency may also consider how well an Applicant's proposed project is coordinated with HUD, DOT, EPA programs and programs available from other potential federal and non-federal partners. Sustainable and equitable approaches can ensure brownfields are cleaned up and reused in ways that:

- contribute to greener and healthier homes, buildings, and neighborhoods;
- mitigate environmental conditions through effective deconstruction and remediation strategies which address solid and hazardous waste, and improve air and water quality;
- improve access by residents to greenspace, recreational property, transit, schools, other nonprofit uses (e.g., libraries, health clinics, youth centers, etc.), and healthy and affordable food;
- improve employment and affordable housing opportunities for local residents;
- reduce toxicity, illegal dumping, and blighted vacant parcels; and
- retain residents who have historically lived within the area affected by brownfields.

*Sustainable development* practices facilitate environmentally-sensitive brownfields cleanup and redevelopment while also helping to make communities more attractive, economically stronger, and more socially diverse. While ensuring consistency with community-identified priorities, sustainable development approaches encourage brownfield site cleanup and reuse in ways that provide new jobs, commercial opportunities, open space amenities, and/or social services to an existing neighborhood. Brownfields site preparation strategies that prevent contaminant exposure through green building design, materials recycling, enable urban agricultural reuse, promote walkability to/around the site and contribute to community walkability, and on-site stormwater management through green infrastructure, among other approaches, can contribute to sustainable development outcomes.

*Equitable development* outcomes come about when intentional strategies are put in place to ensure that low-income and minority communities not only participate in, but benefit from, decisions that shape their neighborhoods and regions. There are many different approaches that promote equitable development, such as ensuring a mix of housing types across a range of incomes, access to fresh food, access to jobs, and access to local capital. Programs or policies can be put in place to help ensure creation or integration of affordable housing; local or first-source hiring; minority contracting; inclusionary zoning (where a percentage of new housing is designated as affordable housing); healthy food retailers in places where they do not exist (e.g. food deserts); co-operative ownership models where local residents come together to run a community-owned, jointly owned business enterprise; rent control or community land trusts (to help keep property affordable for residents); supportive local entrepreneurial activities, and adherence to equal lending opportunities.

EPA encourages applicants to provide specific examples of how the or Cleanup project will work to remove economic, environmental and social barriers to make sustainable and equitable brownfields cleanup and reuse of the highest priority.

Under the Program Benefits ranking criterion in Section V, applicants will be evaluated on how their proposed BF ARC project will advance the livability principles discussed above. In addition, the project will be evaluated on the extent to which it will lead to sustainable and equitable development outcomes as discussed above.

## **I.E. Measuring Environmental Results: Anticipated Outputs/Outcomes**

Pursuant to EPA Order 5700.7, “Environmental Results under EPA Assistance Agreements,” EPA requires that all grant applicants and recipients adequately address environmental outputs and outcomes.

EPA must report on the success of its Brownfields Program through measurable outputs and outcomes, such as the number of sites cleaned up, number of jobs created and amount of funding leveraged. Applicants are required to describe how funding will help EPA achieve environmental outputs and outcomes in their responses to the ranking criteria (section V.B.2, *Project Description and Feasibility of Success*). Outputs specific to each project will be identified as deliverables in the negotiated work plan if the proposal is selected for an award. Grantees will be expected to report progress toward the attainment of expected project outputs and outcomes during the project performance period.

Outputs and Outcomes are defined as follows:

1. Outputs: The term “output” refers to an environmental activity, effort, and/or associated work products related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during the project period. The expected outputs for the grants awarded under these guidelines are the cleanup of brownfield sites. Other outputs may include the number of community meetings held and/or the number of tanks pulled.
2. Outcomes: The term “outcomes” refers to the result, effect or consequence that will occur from carrying out the activities under the grant. Outcomes may be environmental, behavioral, health-related, or programmatic; must be quantitative; and may not necessarily be achievable during the project period. Expected outcomes of brownfields grants include the number of jobs leveraged and other funding leveraged through the economic reuse of sites; the number of acres made ready for reuse or acres of greenspace created for communities; and whether the project will minimize exposure to hazardous substances.

## **SECTION II - AWARD INFORMATION**

### **II.A. What is the amount of available funding?**

The total funding available under the national competitions for assessment, cleanup, and RLF grants is estimated at \$63.2 million subject to the availability of funds and other applicable considerations. Separate announcements are posted for the assessment and RLF competitions. EPA must expend 25 percent of the amount appropriated for brownfields grants on sites contaminated with petroleum. EPA anticipates awarding an estimated 269 grants among all three grant types. Under this announcement, EPA anticipates awarding an estimated 61 cleanup grants for approximately \$14 million. In addition, EPA reserves the right to award additional grants under this competition should additional funding become available. Any additional selections for awards will be made no later than six months from the date of the original selection decision.



EPA reserves the right to reject all proposals and make no awards under this announcement or make fewer awards than anticipated.

In appropriate circumstances, EPA reserves the right to partially fund proposals by funding discrete portions or phases of proposed projects. To maintain the integrity of the competition and selection process, EPA, if it decides to partially fund a proposal, will do so in a manner that does not prejudice any applicants or affect the basis upon which the proposal, or portion thereof, was evaluated and selected for award.

Awards may be fully or incrementally funded, as appropriate, based on funding availability, satisfactory performance, and other applicable considerations.

### **II.B. What is the project period for awards resulting from this solicitation?**

The project period for cleanup grants is up to three years.

### **II.C. Substantial Involvement**

The brownfield cleanup grant will be awarded in the form of a cooperative agreement. Cooperative agreements permit the EPA Project Officer to be substantially involved in overseeing the work performed by the selected recipients. Although EPA will negotiate precise terms and conditions relating to substantial involvement as part of the award process, the anticipated substantial federal involvement for this project may include:

- close monitoring of the recipient's performance to verify the results
- collaborating during performance of the scope of work
- reviewing substantive terms of proposed contracts
- reviewing qualifications of key personnel (EPA will not select employees or contractors employed by the award recipient)
- reviewing and commenting on reports prepared under the cooperative agreement (the final decision on the content of reports rests with the recipient)
- reviewing sites as meeting applicable site eligibility criteria

## **SECTION III - APPLICANT AND SITE ELIGIBILITY INFORMATION**

### **III.A. Who Can Apply?**

The following information indicates what entities are eligible to apply for a cleanup grant:

- General Purpose Unit of Local Government. (For purposes of the brownfields grant program, EPA defines general purpose unit of local government as a "local government" as defined under 40 CFR Part 31.)
- Land Clearance Authority or other quasi-governmental entity that operates under the supervision and control of, or as an agent of, a general purpose unit of local government.
- Government Entity Created by State Legislature.
- Regional Council or group of General Purpose Units of Local Government.

- Redevelopment Agency that is chartered or otherwise sanctioned by a state.
- State.
- Indian Tribe other than in Alaska. (The exclusion of Alaskan tribes from brownfields grant eligibility is statutory at CERCLA §104(k)(1). Intertribal Consortia, comprised of eligible Indian Tribes, are eligible for funding in accordance with EPA’s policy for funding intertribal consortia published in the Federal Register on November 4, 2002, at 67 Fed. Reg. 67181. This policy also may be obtained from your Brownfields Coordinator listed in Section VII.)
- Alaska Native Regional Corporation, Alaska Native Village Corporation, and Metlakatla Indian Community. (Alaska Native Regional Corporations and Alaska Native Village Corporations are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following). For more information, please refer to Brownfields FAQs at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf).)
- Nonprofit organizations. (For the purposes of the brownfields grant program, the term “nonprofit organization” means any corporation, trust, association, cooperative, or other organization that is operated mainly for scientific, educational, service, charitable, or similar purpose in the public interest and is not organized primarily for profit; and uses net proceeds to maintain, improve, or expand the operation of the organization.)

### **III.B. Site Eligibility**

The following items provide important information related to determining if a brownfield site is eligible for funding. Refer to this section when responding to the Threshold Criteria in Section III.C.3. The information you submit will be used by EPA solely to make site eligibility determinations for Brownfields grants and is not legally binding for other purposes including federal, state, or tribal enforcement actions.

#### **1. Basic Site Definition**

To be eligible for a grant, sites must meet the definition of a brownfield as described in Appendix 1.

The following types of properties are not eligible for brownfields funding:

- facilities listed (or proposed for listing) on the National Priorities List (NPL)
- facilities subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA and
- facilities that are subject to the jurisdiction, custody, or control of the United States government. (Note: Land held in trust by the United States government for an Indian tribe is eligible for brownfields funding.)

#### **2. Property-Specific Determination for Eligibility**

The following special classes of property require a “Property-Specific Determination” from EPA to be eligible for brownfields funding:

- properties subject to planned or ongoing removal actions under CERCLA

- properties with facilities that have been issued or entered into a unilateral administrative order, a court order, an administrative order on consent, or judicial consent decree or to which a permit has been issued by the United States or an authorized state under the Resource Conservation and Recovery Act (RCRA), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SDWA)
- properties with facilities subject to RCRA corrective action (§3004(u) or §3008(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures
- properties that are land disposal units that have submitted a RCRA closure notification or that are subject to closure requirements specified in a closure plan or permit
- properties where there has been a release of PCBs and all or part of the property is subject to TSCA remediation; and
- properties that include facilities receiving monies for clean up from the Leaking Underground Storage Tank (LUST) trust fund (see Appendix 1, Section 1.5.6 for a definition of LUST Trust Fund sites)

EPA's approval of Property-Specific Determinations will be based on whether or not awarding a grant will protect human health and the environment and either promote economic development or enable the property to be used for parks, greenways, and similar recreational or nonprofit purposes. Property-Specific Determination requests must be attached to your proposal and do not count in the 15-page limit for Narrative Proposals. (See Appendix 1, Section 1.5, for more information or contact your Regional Coordinator listed in Section VII if you think your site requires a Property-Specific Determination.)

Additionally, applicants eligible for brownfields grant funds cannot be liable for contamination on the site. Site eligibility related to liability is determined differently at sites contaminated with hazardous substances than for sites contaminated by petroleum or petroleum product.

3. Hazardous Substances, CERCLA Liability, and Demonstration of Bona Fide Prospective Purchaser.

Please see AAI Factsheet "EPA Brownfields Grants, CERCLA Liability and All Appropriate Inquiries," for more information: <http://www.epa.gov/brownfields/aai/index.htm>.

For sites contaminated by hazardous substances, persons, including government entities, who may be found liable for the contamination under CERCLA §107 (the Superfund law) are not eligible for grants. Liable parties may include all current owners and operators, former owners and operators of the site at the time of disposal of hazardous substances, and parties that arranged for, or contributed to, the disposal or treatment of hazardous substances on the site. Therefore, even owners who did not cause or contribute to the contamination may be held liable. To be eligible for a site-specific brownfields grant to address contamination at a brownfields property, eligible entities who fall within one of the categories of potentially liable parties must demonstrate that they meet one of the liability protections or defenses set forth in CERCLA by establishing that they are: (1) an innocent landowner; (2) a bona fide

prospective purchaser (BFPP), (3) a contiguous property owner; or (4) local or state government entity that acquired the property involuntarily through bankruptcy, tax delinquency, or abandonment, or by exercising its power of eminent domain. To claim protection from liability as an innocent landowner, contiguous property owner, or bona fide prospective purchaser, property owners, including state and local governments, must conduct all appropriate inquiries prior to acquiring the property. (Please note that these requirements apply to all property acquisitions, including properties acquired by donation or title transfer at zero cost).

Because cleanup grantees must own the property for which they are seeking a grant – and because current owners of contaminated property are potentially liable under CERCLA – all applicants must demonstrate in their proposals that they are not a liable party by establishing that they meet the requirements of one of the liability protections or defenses set forth in CERCLA. For more information on these liability protections, please refer to the Brownfields Law, the April 2009 Fact Sheet entitled: “EPA Brownfields Grants, CERCLA Liability and All Appropriate Inquiries,” and the March 6, 2003, EPA guidance entitled *Interim Guidance Regarding Criteria Landowners Must Meet in Order to Qualify for Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA* (“Common Elements”) (<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-element-guide.pdf>). Applicants may also call the Regional Brownfields Coordinator listed in Section VII with questions about eligibility.

The most common liability protection asserted by applicants is the bona fide prospective purchaser protection (BFPP). Although the statute limits eligibility for BFPP liability protection to entities that purchase property after January 11, 2002, a brownfields grant applicant can take advantage of this protection, for grant purposes only, even if it acquired a site prior to January 11, 2002. Applicants must demonstrate that they complied with all the other BFPP requirements, including:

- All disposal of hazardous substances at the site occurred before the person acquired the site.
- The owner must not be liable in any way for contamination at the site or affiliated with a responsible party. Affiliations include familial, contractual, financial, or corporate relationships that are the result of a reorganization of a business entity with potential liability.
- For purposes of obtaining a CERCLA liability protection, the owner must have conducted all appropriate inquiries (AAI) prior to acquiring the property. AAI, typically met by conducting a Phase I environmental site assessment using the ASTM E1527-05 standard practice, must be conducted or updated within one year prior to the date the property is acquired (i.e., the date on which the entity takes title to the property). In addition, certain aspects of the AAI or Phase I site assessment must be updated, prior to property acquisition, if the activities were conducted more than six months prior to the date of acquisition. Please see the fact sheet “EPA Brownfields Grants, CERCLA Liability and All Appropriate Inquiries,” or EPA’s AAI Final Rule (70 FR 66070) (<http://www.epa.gov/brownfields/aai/index.htm>).

- The owner must take appropriate care regarding any hazardous substances found at the site, including preventing future releases and exposures to hazardous substances on the site.
- The owner must provide all legally required notices and cooperate with authorized response persons in the event of discovery or release of any hazardous substances at the site.
- The owner must comply with any land-use restrictions associated with response actions at the site.

#### 4. Petroleum Site Eligibility

The Brownfields Law outlines specific criteria by which petroleum sites may be eligible for brownfields grant funding. In contrast to eligibility of hazardous substance sites, which is related to the applicant's potential liability under CERCLA, petroleum site eligibility is not related to potential liability under the Resource Conservation and Recovery Act (RCRA), which governs petroleum site liability. Instead, Congress set forth specific criteria briefly described as follows: the site must be of "relatively low risk," there can be no viable responsible party, the applicant cannot be potentially liable for cleaning up the site, and the site must not be subject to a RCRA corrective action order. If a party is identified as being responsible for the site and that party is financially viable, then the site is not eligible for brownfields grant funds (refer to Appendix 1, Section 1.3.2, for more information). Generally, petroleum site eligibility will be determined by EPA or the state, as appropriate. Where the state is unable to make the eligibility determination, EPA will make the determination. EPA will make the determination for tribes.

### **III.C. Threshold Criteria for Cleanup Grants**

This section contains the threshold eligibility criteria that ensure applicants are eligible to receive cleanup grants. Threshold criteria are pass/fail. Threshold criteria include applicant eligibility and site eligibility. The information you submit will be used by EPA solely to make site eligibility determinations for Brownfields grants and is not legally binding for other purposes including federal, state, or tribal enforcement actions. Only those proposals that pass all the threshold criteria will be evaluated against the ranking criteria in Section V.B of this announcement.

Applicants deemed ineligible for funding consideration as a result of the threshold eligibility review will be notified within 15 calendar days of the ineligibility determination. Applicants must respond to the items listed below to ensure that they are eligible for funding.

Your responses to these items are required and must be included as an attachment to the Narrative Proposal and transmittal letter you submit to EPA. See Section IV.C for a complete list of required proposal content.

For purposes of the threshold eligibility review, EPA, if necessary, may seek clarification of applicant information and/or consider information from other sources, including EPA files.

Proposals must substantially comply with the proposal submission instructions and requirements set forth in Section IV of this announcement or they will be rejected. Pages in excess of the page limits described in Section IV.C for the narrative proposal and transmittal letter, and attachments not specifically required, will not be reviewed.

Proposals must be postmarked, or received at [www.grants.gov](http://www.grants.gov), by January 22, 2014. Proposals postmarked or received at [grants.gov](http://grants.gov) after the proposal deadline will be considered late and will not be reviewed unless the applicant can clearly demonstrate that it was late due to EPA mishandling or because of technical problems associated with grants.gov. Applicants should confirm receipt of their proposal with the appropriate Regional Brownfields Coordinator listed in Section VII as soon as possible after the submission deadline. Failure to do so may result in your proposal not being reviewed. Facsimile or email delivery of proposals is not permitted and will not be considered.

Ineligible activities: If a proposal is submitted that includes any ineligible tasks or activities, that portion of the proposal will be ineligible for funding and may, depending on the extent to which it affects the proposal, render the entire proposal ineligible for funding.

## 1. Applicant Eligibility

### a. Eligible Entity

Applicants must demonstrate how they are an eligible entity for a cleanup grant. Refer to the description of applicant eligibility in Section III.A., *Who Can Apply*. For entities other than cities, counties, tribes, or states, please attach documentation of your eligibility (e.g., resolutions, statutes, etc.). If you are a nonprofit organization, you must provide documentation, as an attachment to the proposal, indicating nonprofit status. Failure to do so may render your proposal ineligible for review.

### b. Site Ownership

To be eligible to receive a cleanup grant the applicant must be the sole owner of the site that is the subject of its cleanup grant proposal and must own the site by January 22, 2014. For the purposes of eligibility determinations in these guidelines only, the term “own” means fee simple title through a legal document, for example a recorded deed. EPA will find applicants that do not meet this requirement by January 22, 2014 ineligible. The grantee must maintain sole ownership of the site until the grant is closed out.

## 2. Letter from the State or Tribal Environmental Authority

For an applicant other than a state or tribal environmental authority, attach a current letter from the appropriate state or tribal environmental authority acknowledging that the applicant plans to conduct cleanup activities and is planning to apply for federal grant funds. Failure to submit this letter will result in the rejection of the proposal for further consideration. Letters regarding proposals from prior years are not acceptable. If you are applying for multiple types of grant program activities, you need to receive only one letter acknowledging the relevant grant activities. However, you must provide a copy of this letter as an attachment to

each proposal. Please note that general correspondence and documents evidencing state involvement with the project (i.e., state enforcement orders or state notice letters) are not acceptable. It is the applicant's responsibility to provide advance notice to the appropriate state or tribal environmental authority to allow adequate time for you to obtain the acknowledgement letter and attach it to your proposal.

3. Site Eligibility and Property Ownership Eligibility

If the site is a hazardous substances site, please respond to items a–h.

If the site is a petroleum site, please respond to items a–e and i, including the requirement to provide a petroleum determination letter.

If the site is commingled hazardous substance and petroleum, the applicant must determine whether the predominant contaminant is petroleum or hazardous substances, and respond to the corresponding items (as noted above).

If applicants are applying for petroleum and hazardous substances funding at the same site, and the hazardous substance and petroleum contaminated areas of the site are distinguishable, the proposal must respond to items a – i, including the requirement to provide a petroleum determination letter.

Refer to III.B, *Site Eligibility*, when responding to this section.

**Site Eligibility:**

- a. **Basic Site Information.** Identify (a) the name of the site; (b) the address of the site, including zip code; (c) the current owner of the site; and (d) if you are not the current owner, the date you plan to acquire ownership of the site (required for cleanup grants).
- b. **Status and History of Contamination at the Site.** Identify (a) whether this site is contaminated by petroleum or hazardous substances; (b) the operational history and current use(s) of the site; (c) environmental concerns, if known, at the site; and (d) how the site became contaminated, and to the extent possible, describe the nature and extent of the contamination.
- c. **Sites Ineligible for Funding.** Affirm that the site is (a) not listed or proposed for listing on the National Priorities List; (b) not subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA; and (c) not subject to the jurisdiction, custody, or control of the United States government. (Note: Land held in trust by the United States government for an Indian tribe is eligible for brownfields funding.) Please refer to CERCLA §§ 101(39)(B)(ii), (iii), and (vii) and Appendix 1.
- d. **Sites Requiring a Property-Specific Determination.** Certain types of sites require a property-specific determination in order to be eligible for funding. Please refer to

Appendix 1, Section 1.5, to determine whether your site requires a property-specific determination. If your site requires a property-specific determination, then you must attach the information requested in the Brownfields FAQ at:

[http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf).

- e. **Environmental Assessment Required for Cleanup Proposals.** A written ASTM E1903-11 or equivalent Phase II site assessment report (a draft report is sufficient) must be completed prior to proposal submission. Equivalent reports would include site investigations or remedial action plans developed for a state cleanup program or Office of Surface Mining surveys for mine-scarred lands. Describe the type of environmental assessments conducted at your proposed site (do not attach assessment reports). Provide the date of the Phase II or equivalent report. Contact your Regional Coordinator listed in Section VII if you have questions.

#### **Property Ownership Eligibility:**

EPA grant funding may not be used to pay for response costs at a brownfield site for which the recipient of the grant is potentially liable under CERCLA §107. The following items are intended to help EPA ensure that you are not liable under CERCLA for response costs at the site designated in your proposal, or determine, if necessary, that your site is eligible for funding as a petroleum site. Please respond to the following items fully and in the order that they appear (note that based on your responses, EPA may need to obtain additional information to make this determination).

- f. **CERCLA §107 Liability.** Affirm that you are not potentially liable for contamination at the site under CERCLA §107 (e.g., as a current owner or operator of a facility, an owner or operator of a facility at the time of disposal of a hazardous substance, a party that arranged for the treatment or disposal of hazardous substances, or a party that accepted hazardous substances for transport to disposal or treatment facilities at the site) by establishing that you are eligible for one of the CERCLA liability protections or defenses (see Section III.B.3) and explain why.<sup>1</sup> *Please note that brownfields grant applicants that otherwise meet the requirements for a bona fide prospective purchaser, except for having acquired the property prior to January 11, 2002, may still be eligible for brownfields grants. For further information, please see FAQs on All Appropriate Inquiry for more information at [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf).*

- g. **Enforcement or Other Actions.** Identify known ongoing or anticipated environmental enforcement or other actions related to the brownfield site for which funding is sought. Describe any inquiries or orders from federal, state, or local government entities that the applicant is aware of regarding the responsibility of any party (including the applicant) for the contamination or hazardous substances at the site, including any liens. The information

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<sup>1</sup> Because current owners of sites are potentially liable under CERCLA, cleanup grant applicants who own the site must be able to meet the requirements of one of the CERCLA landowner liability protections, such as the bona fide prospective purchaser provision (CERCLA §107(r)), the innocent landowner defense (CERCLA §107(b)(3) and 101(35)(A)), or the exclusion for state or local governments that involuntarily acquire property (CERCLA §101(20)(D)).



provided in this section may be verified, and EPA may conduct an independent review of information related to the applicant's responsibility for the contamination or hazardous substances at the site.

**h. Information on Liability and Defenses/Protections.**

i) Information on the Property Acquisition. To save space, you may combine responses to the following into one response, though please be sure to answer each item fully. Describe:

- how you acquired or will acquire ownership (e.g., by negotiated purchase from a private individual, by purchase or transfer from another governmental unit, by foreclosure of real property taxes, by eminent domain, or other (describe))
- the date you acquired the property
- the nature of your ownership (fee simple) (note that you must have sole ownership of the site to be eligible for funding)
- the name and identity of the party from whom you acquired ownership (i.e., the transferor) and
- all familial, contractual, corporate, or financial relationships or affiliations you have or had with all prior owners or operators (or other potentially responsible parties) of the property (including the person or entity from which you acquired the property)

ii) Timing and/or Contribution Toward Hazardous Substances Disposal. Identify whether all disposal of hazardous substances at the site occurred before you acquired the property and whether you caused or contributed to any release of hazardous substances at the site. Affirm that you have not, at any time, arranged for the disposal of hazardous substances at the site or transported hazardous substances to the site.

iii) Pre-Purchase Inquiry. Describe any inquiry by you or others into the previous ownership, uses of the property, and environmental conditions conducted prior to taking ownership. Please include in your description:

- The types of site assessments performed (e.g., ASTM Phase I), the dates of each assessment, and the entity for which they were performed (state whether the assessment was performed specifically for you, or if not, the name of the party that had the assessment performed and that party's relationship to you). Please note that to be eligible for a brownfields grant, parties who may be potentially liable under CERCLA (which includes current owners of the property) must demonstrate they are not liable for contamination at the property. In most cases, this demonstration must include evidence that an AAI investigation or Phase I Environmental Site Assessment in compliance with ASTM E1527-05 (or ASTM E2247-08) was conducted prior to property acquisition.
- Who performed the AAI investigation or Phase I environmental site assessments and identify his/her qualifications to perform such work.
- If your original AAI investigation or Phase I environmental site assessment was conducted more than 180 days prior to the date you acquired the property, affirm that you conducted the appropriate updates in the original assessment within 180

days prior to your acquisition of the property in order to take advantage of the bona fide prospective purchaser, innocent landowner, or contiguous property owner provision.

- iv) Post-Acquisition Uses. Describe all uses to which the property has been put since you acquired ownership through the present, including any uses by persons or entities other than you. Please provide a timeline with the names of all current and prior users during the time of your ownership; the dates of all uses; the details of each use, including the rights or other reason pursuant to which the use was claimed or taken (e.g., lease, license, trespass); and your relationship to the current and prior users.
- v) Continuing Obligations.<sup>2</sup> Describe in detail the specific appropriate care that you exercised with respect to hazardous substances found at the site by taking reasonable steps<sup>3</sup> to:
- Stop any continuing releases;
  - Prevent any threatened future release; and
  - Prevent or limit exposure to any previously released hazardous substance.

Please confirm your commitment to:

- Comply with all land-use restrictions and institutional controls;
- Assist and cooperate with those performing the cleanup and provide access to the property;
- Comply with all information requests and administrative subpoenas that have or may be issued in connection with the property; and
- Provide all legally required notices.

i. **Petroleum Sites**. (Disregard this item if you do not have a petroleum site.)

Non-tribal applicants must provide the information required for a petroleum site eligibility determination (listed below) to your state, so that the state can make the necessary determination on petroleum site eligibility. You must provide EPA with a copy of the state determination letter as an attachment to your proposal. If the state does not make the determination before the proposal due date or is unable to make the determination, please attach a copy of the request you sent to the state. (**Note:** You

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<sup>2</sup> Applicants that own contaminated land should be aware that some CERCLA liability protections require that the site owner meet certain continuing obligations. For example, grantees must comply with land-use restrictions and institutional controls; take reasonable steps with respect to the hazardous substances on the property; cooperate with, assist, and allow access to authorized representatives; and comply with CERCLA information requests and subpoenas and provide legally required notices. For more information on the obligations of owners of contaminated property, see EPA's *Common Elements Reference Sheet* at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-elem-ref.pdf>.

<sup>3</sup> Please note that reasonable steps may include actions such as limiting access to the property, monitoring known contaminants, and complying with state and/or local requirements. The steps taken to prevent or limit exposure to previously released hazardous substances may depend, for example, on such things as the location of the site in relation to the public and whether the public has been known to use (or even trespass on) the site.

must provide EPA with the date you requested your state to make the petroleum site determination. EPA will make the petroleum site eligibility determination if a state is unable to do so following a request from an applicant.) Also in your letter to the state, please request that the state provide information regarding whether it applied EPA's guidelines in making the petroleum determination, or if not, what standard it applied.

Tribal applicants must submit the information required for a petroleum site eligibility determination (listed below) as an attachment to your proposal. EPA will make the petroleum site eligibility determinations for tribes.

Information required for a petroleum site eligibility determination:

- i) Current and Immediate Past Owners. Identify the current and immediate past owner of the site. For cleanup grants, the applicant must be the owner.
- ii) Acquisition of Site. Identify when and by what method the current owner acquired the property (e.g., purchase, tax foreclosure, donation, eminent domain).
- iii) No Responsible Party for the Site. Identify whether the current and immediate past owner (which includes, if applicable, the applicant) (1) dispensed or disposed of petroleum or petroleum product contamination, or exacerbated the existing petroleum contamination at the site; (2) owned the site when any dispensing or disposal of petroleum (by others) took place; and (3) took reasonable steps with regard to the contamination at the site.
- iv) Cleaned Up by a Person Not Potentially Liable. Identify whether you (the applicant) dispensed or disposed of petroleum or petroleum product, or exacerbated the existing petroleum contamination at the site, and whether you took reasonable steps with regard to the contamination at the site.
- v) Relatively Low Risk. Identify whether the site is of "relatively low risk" compared to other petroleum or petroleum product-only contaminated sites in the state in which the site is located, including whether the site is receiving or using Leaking Underground Storage Tank (LUST) trust fund monies.
- vi) Judgments, Orders, or Third Party Suits. Provide information that no responsible party (including the applicant) is identified for the site through, either:
  - A judgment rendered in a court of law or an administrative order that would require any person to assess, investigate, or clean up the site; or
  - An enforcement action by federal or state authorities against any party that would require any person to assess, investigate, or clean up the site; or
  - A citizen suit, contribution action, or other third-party claim brought against the current or immediate past owner, that would, if successful, require the assessment, investigation, or cleanup of the site.
- vii) Subject to RCRA. Identify whether the site is subject to any order under section 9003(h) of the Solid Waste Disposal Act.
- viii) Financial Viability of Responsible Parties. For any current or immediate past owners identified as responsible for the contamination at the site, provide information regarding whether they have the financial capability to satisfy their obligations under federal or state law to assess, investigate, or clean up the site.

**Note:** If no responsible party is identified in iii) or vi) above, then the petroleum-contaminated site may be eligible for funding. If a responsible party is identified above, EPA or the state must next determine whether that party is viable. If any such party is determined to be viable, then the petroleum-contaminated site may not be eligible for funding. For more information, see Appendix 1, Section 1.3.2.

#### 4. Cleanup Authority and Oversight Structure

**Please note that you will be required to comply with all applicable federal and state laws and ensure that the cleanup protects human health and the environment.**

- a. Describe how you will oversee the cleanup at the site. Indicate whether you plan to enroll in a state or tribal response program. If you do not plan to enroll in a state or tribal response program, or an appropriate state or tribal response program is not available, you will be required to consult with U.S. EPA to ensure the cleanup is protective of human health and the environment. Therefore, if you do not plan to enroll in a state or tribal response program, provide a description of the technical expertise you have to conduct, manage, and oversee the cleanup and/or whether you plan to acquire additional technical expertise. If you do plan to acquire additional technical expertise, discuss how, consistent with the competitive procurement provisions of 40 CFR 31.36 (for eligible government entities) or 40 CFR Part 30 (for nonprofit organizations), you will ensure that this technical expertise is in place prior to beginning cleanup activities.
- b. Cleanup response activities often impact adjacent or neighboring properties. For example, access to neighboring properties may be necessary to conduct the cleanup, perform confirmation sampling, or monitor offsite migration of contamination. If this type of access is needed, provide your plan to acquire access to the relevant property(ies).

#### 5. Cost Share

- a. Statutory Cost Share (See also Section IV.I on leveraging)

Cleanup grant recipients are required by the Brownfields Law to provide a 20 percent cost share. This cost share is calculated as 20 percent of the total federal cleanup funds awarded. For example, if EPA awards you \$200,000 of federal cleanup funds, you must provide a cost share of an additional \$40,000. The cost share may be in the form of a contribution of money, labor, material, or services from a non-federal source. If the cost share is in the form of a contribution of labor, material, or other services, it must be incurred for an eligible and allowable expense under the grant and not for ineligible expenses, such as administrative costs (see Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf) for a discussion of prohibited costs).

Cleanup grant applicants may petition EPA to waive the cost-share requirement if it would place an undue hardship on the applicant. EPA will consider hardship waiver requests on a case-by-case basis and will approve such requests on a limited basis. In

considering such requests, EPA will look for indicators such as low per-capita income, unemployment rate significantly above the national average, or unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions.

In your proposal:

- i) Demonstrate how you will meet the required cost share, including the sources of the funding or services, as required for this cleanup grant.
- ii) If you are requesting a hardship waiver of the cost share, provide an explanation for the basis of your request as part of your proposal. This explanation must be submitted on a separate page, titled “Hardship Waiver Request.” Your explanation should include the following information: the unemployment rate; per capita income; data demonstrating substantial out-migration or population loss, if relevant; data demonstrating underemployment, that is, employment of workers at less than full-time or at less skilled tasks than their training or abilities permit, if relevant; information regarding military base closures or realignments, defense contractor reductions-in-force, or U.S. Department of Energy defense-related funding reductions, if relevant; local natural or other major disasters or emergencies, if relevant; information regarding extraordinary depletion of natural resources, if relevant; closure or restructuring of industrial firms and negative effects of changing trade patterns, if relevant; whether you are located in a President-Declared Disaster area (declared within 18 months of the submission date for your proposal); whether you have exhausted effective taxing (for governmental entities only) and borrowing capacity. Also, your explanation should include whether the proposed project could still proceed if the cost share waiver was not approved.

Where available, applicants must supply data derived from the most recent American Community Survey (“ACS”) published by the U.S. Census Bureau. In cases where such data are not available, applicants may provide data from other sources (including data available from the Census Bureau and the Bureaus of Economic Analysis, Labor Statistics, Indian Affairs, or other federal sources). In cases where no federal data are available, applicants may submit the most recent data available through their state, tribal, or local government.

## 6. Community Notification

Community Engagement is the cornerstone of the Brownfields Program and ensuring successful cleanup and redevelopment of brownfields projects.

The applicant must provide the community with notice of its intent to apply for an EPA brownfields grant and allow the community an opportunity to comment on the draft proposal. The draft proposals must include, as an attachment, a draft Analysis of Brownfield Cleanup Alternatives (ABCA) which briefly summarizes information about the site and contamination issues, cleanup standards, applicable laws, cleanup alternatives considered, and the proposed

cleanup. The draft ABCA should also include information on the effectiveness, the ability of the grantee to implement each alternative, the cost of each proposed cleanup alternative and an analysis of the reasonableness of the various cleanup alternatives considered, including the one chosen. The ABCA should also evaluate the resilience of the cleanup alternatives in light of reasonably foreseeable changing climate conditions. Please note that the draft ABCA submitted as part of the proposal is intended as a brief preliminary document. A suggested outline, with information that the ABCA must contain, can be found at FAQ #71 [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf). In addition, the applicant must provide a summary of the public comments received and their response to those comments along with meeting notes and sign-in sheets to EPA for the Agency to consider prior to awarding the grant. Furthermore, the applicant must hold a public meeting to discuss the draft proposal and consider public comments. A regularly scheduled community meeting where multiple topics are discussed is sufficient provided there is an opportunity to discuss the draft proposal. In addition to the public meeting, the applicant may choose to host additional outreach sessions via webinars, or other media outlets, to further engage the community and solicit comments on the proposal. If the proposal is selected for funding, applicants will be required to finalize the ABCA, and make it available for additional public review and comment as part of their pre-cleanup activities (see Section VI.F.3.a for more information).

Specifically, you must place a community notification ad in your local newspaper or an equivalent means that you customarily use to communicate to the targeted community(ies) at least two weeks prior to the date you submit your proposal to EPA and no later than January 22, 2014. The community notification ad (or equivalent) must clearly indicate that a copy of this grant proposal, including the draft ABCA, is available for public review and comment by stating where the draft proposal is located (e.g., town hall, library, website). The community notification ad (or equivalent) must indicate that you will accept comments on the draft proposal. The community notification ad (or equivalent) must also announce the date and time of a public meeting that you must hold prior to submittal of this proposal. Refer to the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf) for examples of acceptable community notification methods. States do not need to hold more than one meeting to satisfy this requirement.

The community notification ad (or equivalent) and the meeting must be current and related to this specific proposal. Failure to demonstrate community notification will result in disqualification of this proposal. Applicants who are submitting more than one proposal may plan to have a single community notification ad (or equivalent) and meeting. However, all targeted communities must receive the notification and be provided an opportunity to comment on the proposal(s) relevant to their community.

Attach to this proposal:

- A copy of the draft ABCA.
- A copy of the ad (or equivalent) that demonstrates notification to the public and solicitation for comments on the proposal(s).
- The comments or a summary of the comments received.
- Your response to the public comments.

- Meeting notes or summary from the public meeting(s).

If one or more of the above requested attachments are not submitted with the proposal, please explain **why** the requested attachment is not included.

## **SECTION IV - PROPOSAL SUBMISSION INFORMATION**

### **IV.A. How to Obtain a Proposal Package**

Electronic copies of these guidelines can be obtained from the EPA brownfields website (<http://www.epa.gov/brownfields/applicat.htm>), or through [www.grants.gov](http://www.grants.gov). Hard copies may be requested by contacting your Regional Brownfields Coordinator listed in Section VII.

In order to maintain the integrity of the competition process, EPA staff cannot meet with individual applicants to discuss draft proposals, provide informal comments on draft proposals, or provide advice to applicants on how to respond to ranking criteria. EPA's limitations on staff involvement with grant applicants are described in EPA's Assistance Agreement Competition Policy (EPA Order 5700.5A1). However, EPA staff will respond to questions regarding threshold eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification about this announcement.

### **IV.B. Due Date and Mailing Instructions**

Proposals are due January 22, 2014. Applicants may submit their proposals through the U.S. Postal Service, commercial delivery service, or electronically to [www.grants.gov](http://www.grants.gov). Only one method should be used for the submission of the original, complete proposal package as described in Section IV.C below.

#### **1. Hard Copy Submissions**

Proposals sent through the U.S. Postal Service or a commercial delivery service must be postmarked by January 22, 2014. Only one copy of the complete proposal is required.

Mail one complete, original proposal to:  
Environmental Management Support, Inc.  
Attn: Mr. Don West  
8601 Georgia Avenue, Suite 500  
Silver Spring, MD 20910  
Phone 301-589-5318

(Note: Overnight mail must include Mr. West's phone number in the address.)

Proposals postmarked by the USPS/commercial delivery service after January 22, 2014, will not be considered for funding.

## 2. Electronic Submissions

Proposals sent electronically through grants.gov must be received by grants.gov by 11:59 p.m. Eastern Time on January 22, 2014. Proposals received after 11:59 p.m. Eastern Time on January 22, 2014 will not be considered for funding. Refer to Appendix 2 for specific instructions on the use of grants.gov. In the event that an applicant experiences difficulties transmitting their proposal(s) through grants.gov, please refer to the procedures in Appendix 2. **Note:** There is a registration process to complete for electronic submission via grants.gov. The registration process may take a week or more to complete. Occasionally, technical and other issues arise when using grants.gov. EPA encourages applicants to submit their proposals early.

Applications submitted through grants.gov will be time and date stamped electronically. If you have not received a confirmation of receipt from EPA within 30 days of the proposal deadline, please contact **Jeanette Mendes at 202-566-1887 or mendes.jeanette@epa.gov.** Failure to do so may result in your proposal not being reviewed.

### **IV.C. Content and Form of Proposal Submission**

Refer to Section I.A for information on the number of cleanup grants and amount of funding that may be requested. Applicants must submit separate proposals if more than one cleanup grant is requested. Each proposal must stand on its own merits based on the responses to the relevant criteria for that grant type and must not reference responses to criteria in another proposal.

Pages exceeding stated page limits will not be copied or evaluated. The page limits indicated for the Transmittal Letter and Narrative Proposal do not include the required attachments described in item 1.c. in the Proposal Content below. There is no page limit for the attachments. Only required attachments are allowed – no other attachments will be considered.

Upon receipt, proposals will be reviewed for content and threshold eligibility issues and copied for distribution to evaluators. Do not include binders, spiral binding, or color printing. All proposal materials must be in English. The narrative proposal, transmittal letter, and attachments must be typed, on letter-sized (8.5 x 11-inch) paper, and should use standard 12-point font and 1-inch margins. While these guidelines establish the minimum type size requirements, applicants are advised that readability is of paramount importance. Applicants are responsible for submitting a complete proposal, as described below, by the due date.

1. Proposal Content: Refer to the sections indicated for detailed instructions on what to include in your proposal.
  - a. Transmittal Letter (2 single spaced page limit) – See No. 2 below
  - b. The Narrative Proposal, which includes the responses to all ranking criteria (15 single-spaced page limit) – See No. 3 below
  - c. Attachments (**Only** the listed attachments will be accepted- all others will be removed from the proposal prior to review. There is no page limit for attachments.)
    - i) Threshold Documentation including cost-share documentation (see Section III.B and C)
    - ii) Letter from the state or tribal environmental authority (see Section III.C.2.)



- iii) Letters of support from all community-based organizations identified in the community engagement and partnerships ranking criteria (see Section V.B.3.) You must attach support letters to your proposal or EPA will not take the community-based organization's support into consideration.
  - iv) Documentation indicating leveraged funds are committed to the project (see Section V.B.2.b.iii)
  - v) Documentation of community notification, including copies of ads (or equivalent) and comments received by you, your organization's responses to those comments, and meeting notes and sign-in sheets (see Section III.C.6.)
  - vi) Draft Analysis of Brownfields Cleanup Alternatives (ABCA) (template is located in Appendix 3. See Section III.C.6.)
  - vii) Documentation of nonprofit status, if applicable (see Section III.C.1.)
  - viii) Documentation of applicant eligibility if other than city, county, state, or tribe (see section III.C.1.)
  - ix) Justification for cleanup cost-share waiver, if applicable (see Section III.C.5.)
  - x) Property-Specific Determination request, if applicable (see Section III.C.3.d.)
  - xi) Petroleum eligibility determination information, if applicable (see Section III.C.3.i.)
  - xii) Other Factors checklist (located at Appendix 3), if applicable (see Section IV.C.2.j)
- d. SF 424 and 424A forms for grants.gov submissions. See Appendix 2.
2. Transmittal Letter: The transmittal letter shall identify the applicant and a contact for communication with EPA. The transmittal letter, including the applicant identification information, shall not exceed two single spaced pages. Any pages submitted over the page limit will not be considered. The transmittal letter must be written on the applicant's official letterhead, and signed by an official with the authority to commit your organization to the proposed project. Applicants are to submit separate transmittal letters for each proposal they submit. EPA does not consider information in transmittal letters to be responses to the ranking criteria. Each transmittal letter must also include:
- a. Applicant Identification: Provide the name and full address of the entity applying for funds. This is the agency or organization that will be receiving the grant and will be accountable to EPA for the proper expenditure of funds.
  - b. Applicant DUNS number [Refer to Section VI.G for more information if you do not have a DUNS number.]
  - c. Funding Requested:
    - i) Grant type: Indicate Cleanup
    - ii) Federal Funds Requested: \$\_\_\_\_\_ and whether you are requesting a cost-share waiver (refer to funding limitations for cleanup grants)
    - iii) Contamination: Hazardous Substances, Petroleum, or both  
**Note:** if both, provide a breakdown of the amount of funding you are requesting by contaminant type (e.g., \$150,000 hazardous substances and \$50,000 petroleum)
  - d. Location: City, county, and state or reservation, tribally owned lands, tribal fee lands,

- etc., of the brownfields property(ies).
- e. Property name and complete site address, including zip code.
  - f. Contacts:
    - i) Project Director: Provide name, phone/fax numbers, e-mail address, and mailing address of the Project Director assigned to this proposed project. This person should be the main point of contact for the project, and should be the person responsible for the project's day-to-day operations. The Project Director may be contacted if other information is needed.
    - ii) Chief Executive/Highest Ranking Elected Official: Provide the name, phone/fax numbers, e-mail address, and mailing address of the applicant's Chief Executive or highest ranking elected official. For example, if your organization is a municipal form of government, provide this information for the Mayor or County Commissioner. Otherwise, provide this information for your organization's Executive Director or President. These individuals may be contacted if other information is needed.
  - g. Date Submitted: The date your proposal is submitted to EPA via U.S. Postal Service, commercial delivery service, or electronically through [www.grants.gov](http://www.grants.gov).
  - h. Project Period: The project period must not exceed three years for cleanup grants.
  - i. Population:
    - i) Provide the general population of your jurisdiction.
    - ii) If you are not a municipal form of government, provide both the population of the target area and the jurisdiction to be addressed by this proposal. Tribes must provide the number of tribal/non-tribal members affected. Your jurisdiction's population can be found at: <http://www.census.gov>.
  - j. Please attach the "Other Factors" Checklist in Appendix 3 to the transmittal letter identifying which, if any, of the items are applicable to your proposal. The "Other Factors" Checklist does not count towards the two-page limit for this section.
3. Narrative Proposal: The narrative proposal includes responses to the ranking criteria (see Section V.B). The narrative proposal shall not exceed 15 single spaced pages. Any pages submitted over the page limit will not be evaluated. The narrative proposal must be clear, concise, and specifically address all of the applicable ranking criteria. Responses to the criteria must include the criteria number and title but need not restate the entire text of the criteria. Proposals must provide sufficient detail to allow for an evaluation of the merits of the proposal. Factual information about your proposed project and community must be provided. Do not include discussions of broad principles that are not specific to the proposed work or project covered by your proposal.
4. Attachments – See List Above (IV.C.1)

#### **IV.D. Intergovernmental Review**

As appropriate for your state, applicants are encouraged to contact their State Intergovernmental Review Office early to start the required intergovernmental review process. The review process will be needed if you are selected to receive a grant. This effort is separate from the threshold criteria related to a state environmental letter attachment (see Section III.C.2). Contact your Regional Brownfields Coordinator listed in Section VII for assistance.

#### **IV.E. Use of Funds to Make Subawards, Contract Services, or Fund Partnerships**

EPA awards funds to one eligible applicant as the recipient even if other eligible applicants are named as partners or co-applicants or members of a coalition or consortium. The recipient is accountable to EPA for the proper expenditure of funds.

Funding may be used to provide subgrants or subawards of financial assistance, which includes using subawards or subgrants to fund partnerships , provided the recipient complies with applicable requirements for subawards or subgrants including those contained in 40CFR Parts 30 or 31, as appropriate. Applicants must compete contracts for services and products, including consultant contracts, and conduct cost and price analyses, to the extent required by the procurement provisions of the regulations at 40 CFR Parts 30 or 31, as appropriate. The regulations also contain limitations on consultant compensation. Applicants are not required to identify subawardees/subgrantees and/or contractors (including consultants) in their proposal/application. However, if they do, the fact that an applicant selected for award has named a specific subawardee/subgrantee, contractor, or consultant in the proposal/application EPA selects for funding does not relieve the applicant of its obligations to comply with subaward/subgrant and/or competitive procurement requirements as appropriate. Please note that applicants may not award sole source contracts to consulting, engineering or other firms assisting applicants with the proposal solely based on the firm's role in preparing the proposal/application.

Successful applicants cannot use subgrants or subawards to avoid requirements in EPA grant regulations for competitive procurement by using these instruments to acquire commercial services or products from for-profit organizations to carry out its assistance agreement. The nature of the transaction between the recipient and the subawardee or subgrantee must be consistent with the standards for distinguishing between vendor transactions and subrecipient assistance under Subpart B Section .210 of OMB Circular A-133 , and the definitions of subaward at 40 CFR 30.2(ff) or subgrant at 40 CFR 31.3, as applicable. EPA will not be a party to these transactions. Applicants acquiring commercial goods or services must comply with the competitive procurement standards in 40 CFR Part 30 or 40 CFR Part 31.36 and cannot use a subaward/subgrant as the funding mechanism.

#### **IV.F. Evaluation of Subawardees and Contractors**

Section V of this announcement describes the evaluation criteria and evaluation process that will be used by EPA to make selections under this announcement. During this evaluation, except for those criteria that relate to the applicant's own qualifications, past performance, and reporting

history, the review panel will consider, if appropriate and relevant, the qualifications, expertise, and experience of the following:

- (i) an applicant's named subawardees/subgrantees identified in the proposal if the applicant demonstrates in the proposal that if it receives an award that the subaward/subgrant will be properly awarded consistent with the applicable regulations in 40 CFR Parts 30 or 31. For example, applicants must not use subawards/subgrants to obtain commercial services or products from for-profit firms or individual consultants.
- (ii) an applicant's named contractor(s), including consultants, identified in the proposal if the applicant demonstrates in its proposal that the contractor(s) was selected in compliance with the competitive Procurement Standards in 40 CFR Part 30 or 40 CFR 31.36 as appropriate. For example, an applicant must demonstrate that it selected the contractor(s) competitively or that a proper non-competitive sole-source award consistent with the regulations will be made to the contractor(s), that efforts were made to provide small and disadvantaged businesses with opportunities to compete, and that some form of cost or price analysis was conducted. EPA may not accept sole source justifications for contracts for services or products that are otherwise readily available in the commercial marketplace.

EPA will not consider the qualifications, experience, and expertise of named subawardees/subgrantees and/or named contractor(s) during the proposal evaluation process unless the applicant complies with these requirements.

#### **IV.G. Confidential Business Information**

EPA recommends that you do not include confidential business information ("CBI") in your proposal/application. However, if CBI is included, it will be treated in accordance with 40 CFR 2.203. Applicants must clearly indicate which portion(s) of their proposal/application they are claiming as CBI. EPA will evaluate such claims in accordance with 40 CFR Part 2. If no claim of confidentiality is made, EPA is not required to make the inquiry to the applicant otherwise required by 40 CFR 2.204(c)(2) prior to disclosure. The Agency protects competitive proposals/applications from disclosure under applicable provisions of the Freedom of Information Act prior to the completion of the competitive selection process.

#### **IV.H. Management Fees**

When formulating budgets for proposals/applications, applicants must not include management fees or similar charges in excess of the direct costs and indirect costs at the rate approved by the applicants cognizant audit agency, or at the rate provided for by the terms of the agreement negotiated with EPA. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs that are not allowable under EPA assistance agreements. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

#### **IV.I. Additional Voluntary Cost Share/Leveraging (See Section III.C.5 on cost share)**

Voluntary cost sharing is when an applicant voluntarily proposes to provide costs/contributions to support the project when a cost share is not required or, as would be in the case under this competition, to provide costs/contributions above the required cost share. When preparing proposals, applicants should remember that voluntary cost share is a form of leveraging and can be included in the response to the leveraging criteria. If an applicant proposes a voluntary cost share, the following apply: (1) A voluntary cost share is subject to the match provisions in the grant regulations (40 CFR 30.23 or 40 CFR 31.24, as applicable); (2) The recipient may not use other sources of federal funds to meet a voluntary cost share unless the federal statute authorizing the other federal funding provides that the federal funds may be used to meet a cost share requirement on a federal grant; and (3) A voluntary cost share may only be met with eligible and allowable costs. The recipient is legally obligated to meet any proposed voluntary cost share that is included in the approved project budget, should the applicant be selected for award.

#### **IV. J. Pre-proposal/Application Assistance and Communications**

In accordance with EPA's Assistance Agreement Competition Policy (EPA Order 5700.5A1), EPA staff will not meet with individual applicants to discuss draft proposals, provide informal comments on draft proposals, or provide advice to applicants on how to respond to ranking criteria. Applicants are responsible for the contents of their applications/proposals. However, consistent with the provisions in the announcement, EPA will respond to questions from individual applicants regarding threshold eligibility criteria, administrative issues related to the submission of the proposal, and requests for clarification about the announcement. In addition, if necessary, EPA may clarify threshold eligibility issues with applicants prior to making an eligibility determination.

#### **IV.K. Duplicate Funding**

Generally, applicants are not prohibited from submitting the same or virtually the same proposal to EPA under multiple competitions, if appropriate. However, if an applicant does so, and the proposal is selected for award under another competition, that may affect their ability to receive an award under this competition for that proposal.

### **SECTION V - PROPOSAL REVIEW INFORMATION**

#### **V.A. Review and Selection Process**

Timely submitted proposals initially will be reviewed by the appropriate EPA Regional Office to determine compliance with the applicable threshold criteria for cleanup grants (Section III.C). The threshold criteria review is pass/fail. Applicants deemed ineligible for funding consideration as a result of the threshold criteria review will be notified within 15 calendar days of the ineligibility determination. All proposals that pass the threshold criteria review will then be evaluated by national evaluation panels chosen for their expertise in the range of activities associated with the brownfields cleanups. The national evaluation panels will be composed of

EPA staff and potentially other federal agency representatives. Eligible proposals will be evaluated based on the criteria described below and a ranking list of applicants will be developed.

The Office of Brownfields and Land Revitalization (OBLR) will provide the list to the Selection Official, who is responsible for further consideration of the proposals and final selection of grant recipients. Proposals will be selected for award by this Official based on their evaluated point scores, the availability of funds, and if, and as appropriate, consideration of the other factors described in Section V.C.

## **V.B. Ranking Criteria for Cleanup Grants**

If your proposal passes the threshold eligibility review (see Section III.C), your responses to the ranking criteria below will be evaluated and scored by national evaluation panels. Your proposal may be assigned up to 100 points based on the ranking criteria. Respond to the following ranking criteria below in your proposal.

Please respond to all ranking criteria and sub-ranking criteria below regardless of whether the criteria applies to your application. Any criterion left unanswered may result in zero points given for that criterion.

### **1. Community Need [15 points]**

This section of your proposal provides the context for your project. The needs defined in this section should provide the foundation of your later discussion of the brownfields project, planned community engagement and partnerships and the ways the project will ultimately benefit your targeted community (both outputs and outcomes). This section of your narrative should identify your targeted community, as well as the community's brownfield issues and the impacts they have on the targeted community in which they are located. This section should also present the environmental, health and/or welfare, and economic challenges faced by the targeted community as related to its brownfields. Proposals will be evaluated on the quality and extent to which you have presented a compelling picture of your brownfield(s) and needs of your targeted community.

All proposals should demonstrate that the grant will serve a community with a need to address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations; and/or will serve a community that have an inability to draw on other sources of funding because of, for example, their small population or the low income of the community. that have an inability to draw on other sources of funding because of the small population or low income of the community.

#### **a. Targeted Community and Brownfields [5 points]**

##### Targeted Community

Include a brief description of your city, town, or geographic area to provide the reader background on its cultural and industrial history that establishes the context for your brownfield challenges. Within this geographic area, identify and describe the targeted

community, such as a neighborhood, district, corridor, census tract or other locality where the property to be cleaned up with this grant is located.

Demographic Information

Provide demographic information about your targeted community including pertinent indicators of population, unemployment, poverty, minorities, and income such as those shown in the suggested table below, and clearly cite the sources of your data.

Sample Format for Demographic Information (supplement as appropriate)

	Targeted Community (e.g. Census Tract)	City/Town or County	Statewide	National
Population:				308,745,538 <sup>1</sup>
Unemployment:				7.2% <sup>2</sup>
Poverty Rate:				15.1 % <sup>3</sup>
Percent Minority:				26.7% <sup>1</sup>
Median Household Income:				\$49,445 <sup>3</sup>
Other:				
<sup>1</sup> Data is from the 2010 U.S. Census data and is available at <a href="http://www.census.gov/">http://www.census.gov/</a> . <sup>2</sup> Data is from the Bureau of Labor Statistics and is available at <a href="http://www.bls.gov">www.bls.gov</a> <sup>3</sup> Data is from the 2010 American Community Survey and is available at <a href="http://www.census.gov/newsroom/releases/archives/income_wealth/cb11-157.html">http://www.census.gov/newsroom/releases/archives/income_wealth/cb11-157.html</a>				

For resources to gather demographic information, please go the FAQs at [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf)

Brownfields

Describe the brownfield property to be cleaned up under this grant, as well as its proximity to, and its effect on your targeted community. If there are other brownfield sites nearby which may also be affecting the targeted community, provide similar information about those brownfields as well in order to give the reader an understanding of the overall brownfields challenges you are facing. Provide information about the nature and extent of your brownfield(s) such as past land uses and site activities, potentially related environmental contaminants, and current conditions. Discuss the real or perceived negative environmental impacts associated with the brownfield(s).

Cumulative Environmental Issues

In addition to brownfields, provide a summary of other various cumulative environmental issues (e.g. siting of power plants, incinerators, industry, landfills, congested highways, or other sources of air, water and land pollution) or other environmental justice concerns which may be present.

**b. Impacts on Targeted Community [5 Points]**

Describe how the issues you have identified have resulted in a disproportionate impact on the targeted community. Provide information describing the threats to health and/or welfare of sensitive populations such as children, pregnant women, minority or low-income communities, or other sensitive groups in the targeted community potentially subject to environmental exposures, including brownfields. Discuss the impacts the brownfields have on public health and/or welfare and environment of your targeted community, such as:

- possible aggravation of public health issues, such as a greater than normal incidence of diseases or conditions (including, but not limited to, cancer, asthma or birth defects) that may be associated with exposure to hazardous substances, pollutants or contaminants resulting from cumulative environmental conditions, including brownfields; or-
- other impacts on the general health and/or welfare of the targeted community.

Describe how the property that will be cleaned up under this grant contributes to adverse impacts to the community.

**c. Financial Need [5 Points]**

**i.) Economic Conditions** [3 points]

Describe why you as applicant need this funding and is unable to draw on other sources of funding because of factors such as its small population or the low income of the community. Describe how local economic conditions may have been made worse due to industrial decline, plant closures, natural disasters, or other significant economic disruption.

**ii.) Economic Effects of Brownfields** [2 points]

Elaborate on the demographic table above (section 1(a)) and discuss the key economic effects (e.g. reduced tax base, lost jobs and business opportunities, depressed property values, ongoing costs to secure vacant properties, etc.) of the brownfields on the targeted community. Describe other economic effects associated with brownfields such as blight, property vacancy, community disinvestment, burden on municipal services etc. To the extent that this discussion may include quantitative estimates and statistics, clearly cite the sources of such data.

**2. Project Description and Feasibility of Success [30 points]**

This section of your proposal describes your project and how it will be implemented. This section should demonstrate the feasibility of the project you will fund with this grant, and the extent to which the grant will stimulate the availability of other funds for cleanup and the subsequent reuse of the site and the target area in which the site is located.



Proposals will be evaluated on the quality and extent to which you demonstrate:

- how your project aligns with the targeted community's land use and revitalization plans;
- a reasonable approach and methodology to achieve project goals;
- a realistic basis for project costs; and
- the availability of, and access to, sufficient resources to complete the project and implement the reuse plan or achieve community revitalization plans.

**Proposals** should demonstrate the majority of grant funds are allocated for tasks directly associated with environmental remediation.

Refer to Section VI.F, *Brownfields Programmatic Requirements*, to read EPA expectations of projects funded with brownfields cleanup grants.

**a. Project Description [15 Points]**

i.) Existing Conditions (5 points)

Describe the existing conditions and reuse planning of the subject property including extent of contamination and current uses. Describe any buildings or structures on the site. Describe the proposed or projected reuse of the subject property including specific redevelopment plans which may already be in place. Describe how cleanup of the property will encourage further revitalization of the overall community and how the project aligns with the targeted community's land use and revitalization plans or vision.

ii.) Proposed Cleanup Plan (10 points)

Describe the proposed cleanup plan. Describe the proposed cleanup methods that are being considered such as contaminated soil removal, treatment, or containment. Ensure that this discussion is consistent with the information submitted in the draft ABCA attachment.

**b. Task Description and Budget Table [10 Points]**

Task Descriptions

List the tasks required to implement the proposed project. Describe the work that will take place under each task including grant-funded work and any supplemental work or services necessary to carry out the project that will be funded by sources other than this grant. (Activities not supported by the grant should not be included in the budget table.) Identify and enumerate specific outputs from the project, which may include, but are not limited to, cleanup plans, community involvement plans, final Analysis of Brownfields Cleanup Alternative documents, administrative records, and cleanup completion report or letter. (Refer to section I.E.1 for an explanation of outputs.)

Provide a cost estimate for each grant-funded task, which describes the basis for the estimated costs and specifies costs by the budget categories shown in the table below. Where appropriate, present unit costs and quantify work products (e.g., Contractual Costs: five tank pulls at a cost of \$13,000 per tank for a total of \$65,000). Explain all costs, especially those costs that might appear to be atypical (i.e., unusually high or low).

Do not include tasks for activities that are ineligible uses of funds under EPA's cleanup grant (e.g., land acquisition, building demolition that is not necessary to cleanup contamination at the site, or administrative costs, such as indirect costs). Please refer to the Brownfields FAQ at [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf) for additional examples of ineligible uses of funds. For questions not covered by the FAQ, contact your Regional Coordinator.

Discuss the specific activities that will be covered by the Cost Share. Cost share activities must be otherwise eligible activities under the grant.

#### Budget Table

The table format below can be used to present the allocation of EPA grant funds to the specific tasks described above. Specify the costs by budget category. Include only EPA grant funds and required cost share in this table.

Applicants requesting a combination of hazardous substance and petroleum funding in the same proposal may present combined total figures in this table. The relative breakdown/proportions of the two types of funding can be explained via footnotes. Alternately, applicants may choose to provide two separate budget tables, or two separate line items within one budget table, which distinguish hazardous substance funds from petroleum funds. Task descriptions and budget estimates must distinguish hazardous substance funds from petroleum funds.

Note: Even if applying via Grants.gov, EPA encourages the use of the table format below.

#### **Sample Format for Budget**

<b>BUDGET DETAIL</b>					
<b>Budget Categories</b>	<b>Project Tasks (\$)</b>				
	Task 1	Task 2	Task 3	Task 4	Totals
Personnel					
Fringe Benefits					
Travel <sup>1</sup>					
Equipment <sup>2</sup>					
Supplies					
Contractual					
Other (specify) _____					
<b>Total Federal Funding (not to exceed \$200,000)</b>					
Cost Share <sup>3</sup>					
<b>Total Budget</b>					

1 Travel to brownfields-related training conferences is an acceptable use of these funds.

2 EPA defines equipment as items that cost \$5,000 or more with a useful life of more than one year. Items costing less than \$5,000 are considered supplies.

3 Applicant must include the cost share in the budget even if applying for a cost share waiver. If the applicant is successful and the cost share waiver is approved, it will be removed in pre-award negotiation.

**c. Ability to Leverage [5 points]**

Describe other sources of funding or other resources that you have or may be seeking to ensure the successful cleanup of the brownfield site. Similarly discuss the sources of funding associated with the potential revitalization of the site. Leveraged funds may include any public or private resources beyond this grant. Provide any letters or documentation as attachments to substantiate firm commitments of leveraged funding.

If you are not yet able to identify sources of leveraged funding needed for this project, then provide a recent example where you or your project partners have successfully leveraged resources to achieve an environmental or revitalization goal of your community (not necessarily on a brownfields site). Attach copies of documentation to this proposal for any “firm leveraged” resources identified in this section. See the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY13\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY13_FAQs.pdf) for more information on how to demonstrate leveraging commitments.

Leveraging commitments, unlike the cost share match, should not be included in your budget table.

### **3. Community Engagement and Partnerships [15 points]**

This section of your proposal demonstrates how you will inform and involve the community and other stakeholders during the planning and implementation of your project. Your responses to the criteria will also explain how your proposed community engagement plan will meet the needs of the targeted community identified in Community Need (Section V.B.1) portion of your proposal and identify the stakeholders and partners necessary to achieve the benefits discussed in Project Benefits (Section V.B.4). Proposals should discuss and demonstrate meaningful involvement of community groups or representatives directly affected by the site, in addition to the broader community. Information provided should include the following as applicable to the project: a plan for developing partnerships or describing existing partnerships; and plans for connecting with appropriate health agencies.

#### **a. Plan for Involving Targeted Community & Other Stakeholders; and, Communicating Project Progress [5 points]**

Discuss your plan for involving the targeted community and other stakeholders (such as neighborhood organizations, citizens groups, borrowers, and developers) in the planning and implementation of your project. Community involvement activities may occur throughout the planning, cleanup decision, or reuse planning phases.

Discuss how you will seek out and consider concerns that local residents may have with regard to health, safety, and community disruption potentially posed by the proposed cleanup activities. Describe how you will identify sensitive populations and will ensure that your cleanup is conducted in a manner that is protective of sensitive populations and nearby residents. Describe your plan for communicating the progress of your project to citizens, addressing the needs of the targeted community discussed under Community Need.

#### **b. Partnerships with Government Agencies [5 points]**

Identify which agency or agencies are anticipated to have regulatory jurisdiction over your cleanup and discuss the roles they may have in ensuring your cleanup meets applicable standards or otherwise is protective of human health and the environment. Discuss the roles that state or local health agencies may play in your project or explain why health agency involvement would not be applicable to your project.

#### **c. Partnerships with Community Organizations [5 points]**

Describe your current efforts and plans to initiate and develop partnerships with community organizations and discuss how they will be involved in the planning and implementation of your project.

- Include a description of each organization involved in your project.
- Describe the role and commitments that each of these organizations will make in planning and implementation of the project. EPA may conduct reference checks to ensure that organizations identified are supportive and involved with the brownfields project.
- Letters of Support - Attach to the proposal current letters from all of the community organizations listed that discuss their support of the project and describe and affirm

the roles and commitments they make to the planning and implementation of the project. The number of partners is not as important as the contributions of the organizations. Letters should affirm information provided by the applicant.

**Note:** If there are no community organizations in your community, then affirm this and demonstrate how the community is engaged and will continue to be involved in your project. This can be done by including support letters from residents, letters from residents to the editors of local newspapers, attendance lists at public meetings concerning the project, comments from local citizens received on the plans and implementation of the project, etc.

**Note:** Community organizations do **not** include local government departments, the local planning department/district/office, local contractors, the mayor's office, or other elected officials. See FAQ # 7

([http://www.epa.gov/brownfields/proposal\\_guides/FY1?FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY1?FAQs.pdf)) for more information about Community Organizations.

**Subawards to Community Organizations:**

If you intend to fund a community organization with a subaward, please review Section IV.F carefully.

**4. Project Benefits [15 points]**

This section of your proposal describes the overall outcomes and benefits expected from your project in the context of the needs you demonstrated in the Community Need (Section V.B.1), the broader planning efforts (as discussed in Project Description (Section V.B.2), including sustainable redevelopment and the near-term efforts to support sustainable environmental practices in the community. It will also describe how the outcomes of this cleanup will contribute to the overall community plan for the revitalization of brownfields sites. Proposals will be evaluated on the quality and extent to which the proposal demonstrates the potential of the project, or the development plan for the project or the project area to, realize significant outcomes and benefits to the health/welfare and environment of the community, facilitate environmentally sustainable redevelopment planning, and stimulate economic or non-economic benefits.

**a. Health and/or Welfare and Environment [10 points]**

Describe the health and/or welfare and environmental benefits anticipated from the cleanup and revitalization of the property. Describe how these benefits will address the health and/or welfare and environmental challenges discussed in the Community Need section.

**b. Environmental Benefits from Infrastructure Reuse/Sustainable Reuse [5 points]**

**i.) Planning, Policies or Other Tools [2 points]**

Describe how your community is using planning, policies, ordinances or other tools to foster and implement sustainable redevelopment. Provide examples which may be pertinent to the proposed project such as using existing infrastructure, green buildings,

energy efficiency, water management, green remediation, construction and demolition materials recycling, diesel emissions reductions, and renewable energy.

ii.) Example of Efforts [3 points]

Provide one example of efforts you have taken in your planning to integrate equitable development or livability principles for cleanup and revitalization of brownfields, such as improved transportation choices, affordable housing, and other considerations as described on page 6 of these guidelines.

c. **Economic and Community Benefits [5 points]**

i.) Economic or Other Benefits [3 points]

Describe the long-term outcomes and benefits that will result from implementation of this grant. Include specific discussion of economic benefits, such as increased employment and expanded tax base;

OR

Discuss other non-economic benefits associated with the cleanup of your site to be reused for greenspace or other not-for-profit activities. Examples may include areas redeveloped for uses such as parks, recreation areas, greenways, environmental buffers and other not-for-profit, governmental or charitable organization spaces such as libraries, schools, health centers, community centers, fire stations, etc.

ii.) Job Creation Potential: Partnerships with Workforce Development Programs [2 points]

Describe any efforts you plan to promote local hiring and procurement, or to link members of the community to potential employment opportunities related to your proposed project. Such efforts may include, but are not limited to, partnering with local workforce development entities or Brownfields job training grantees. A list of Brownfields job training grantees can be found at

[http://cfpub.epa.gov/bf\\_factsheets/index.cfm](http://cfpub.epa.gov/bf_factsheets/index.cfm).

5. **Programmatic Capability and Past Performance [20 points]**

This section of your proposal demonstrates that your organization (“the applicant”) has programmatic capability (experience, knowledge and resources, or ability to obtain them) necessary to ensure successful completion of all required aspects of this project and grant as discussed in the previous section of your proposal and Section VI of the these guidelines. Proposals will be evaluated on the quality and extent to which your proposal demonstrates *the ability of your organization to successfully manage and complete the project, considering your programmatic and administrative capacity, plans for measuring and reporting your outputs and outcomes, and your past and/or current performance* under federally and/or non-federally funded assistance agreements (past and current).

**Note:** In evaluating an applicant’s response to this criterion, in addition to the information provided by the applicant, EPA may consider relevant information from other sources

including information from EPA files and/or from other federal or non-federal grantors to verify or supplement information provided by the applicant.

**a. Programmatic Capability [12 points]**

Describe the organizational structure you will utilize to ensure the timely and successful expenditure of funds and completion of all technical, administrative and financial requirements of the project and grant. Include a brief discussion of the key staff including their roles, expertise, qualifications, and experience.

Describe the system(s) you have in place to appropriately acquire any additional expertise and resources (e.g. contractors or subawardees) required to successfully complete the project. Please refer to Section IV.E. and F. regarding contractors and subawards.

**b. Audit Findings [2 points]**

Describe any adverse audit findings. If you have had problems with the administration of any grants (e.g., compliance reporting, expenditure of funds, etc.), please describe how you have corrected, or are correcting, the problems. If you have not, please affirm that you have not had any adverse audit findings. Respond to this criterion regardless of whether or not you have had a federal or non-federal assistance agreement. [*Failure to address this section will result in zero points for this factor.*]

**c. Past Performance and Accomplishments [6 points]**

If you have ever received an EPA brownfields grant, please respond to **item i.**

If you have never received an EPA brownfields grant, but have received other federal or non-federal assistance agreements (an assistance agreement is a grant or cooperative agreement, but not a contract) please respond to **item ii.**

If you have never received any type of federal or non-federal assistance agreements please indicate this in response to **item iii.** and you will receive a neutral score of 3 points for this factor

i) **Currently or Has Ever Received an EPA Brownfields Assessment, Revolving Loan Fund, or Cleanup Grant**

Identify and provide information regarding each of your current and most recent EPA assessment, revolving loan fund or cleanup brownfields grant(s) (but no more than five). Demonstrate how you successfully managed the grant(s), and successfully performed all phases of work under each grant by providing information on the following:

1. Compliance with grant requirements [3 points]:

Discuss your compliance with the work plan, schedule and terms and conditions. Include whether have made, or are making, sufficient progress towards achieving the expected results of the grant in a timely manner? If you are not, please explain why? What corrective measures did you take, or are you taking, and how did you document and communicate them?

Discuss your history of timely and acceptable quarterly performance and technical reporting, as well as, ongoing Assessment, Cleanup and Redevelopment Exchange System (ACRES) reporting.

For all open EPA Brownfield grant(s), please explain your need for additional funding. Additionally, for all open grant(s) indicate if there are funds remaining, the grant period (start and end date) and the plan for expenditure by the end of the grant period.

For all closed EPA Brownfields grant(s), indicate if there were funds remaining at the time of closure, the amount of remaining funds and a brief explanation of why the funds were not expended.

2. Accomplishments [3 points]:

Describe the accomplishments and specific outputs of your grant funded program, including at minimum, the number of sites assessed and cleaned up.

Discuss whether these outputs and outcomes were accurately reflected in ACRES at the time of this proposal submission, and if not, please explain why?

- OR -

ii. **Has Not Received an EPA Brownfields Grant but has Received Other Federal or Non-Federal Assistance Agreements**

Identify and describe each of your current and/or most recent federally and non-federally funded grants (no more than five) that are most similar in size, scope, and relevance to the proposed project. Demonstrate how you successfully managed the grant(s), and successfully performed all phases of work under each grant by providing information on the following:

1. Purpose and Accomplishments [3 points]:

Describe the awarding agency/organization, amount of funding, and purpose of the grant(s) you have received.

Discuss the specific accomplishments and outputs and outcomes of the project supported by these grants, including specific measure of success for the project supported by each type of grant received.

2. Compliance with grant requirements [3 points]:

Describe your compliance with the work plan, schedule and terms and conditions. Include whether you made or are making sufficient progress towards achieving the expected results of the grant in a timely manner? If not, please explain why.



What corrective measures did you take, or are you taking, and how did you document and communicate them?

Discuss your history of timely and acceptable reporting, as required by the awarding agency/organization.

- OR -

iii) **Has Never Received Any Type of Federal or Non-Federal Assistance Agreements**

Affirm that your organization has never received any type of federal or non-federal assistance agreement (grant). [*Failure to indicate anything in response may result in zero points for this factor.*][3 points]

### V.C. Other Factors

In making final selection recommendations from among the most highly ranked proposals, EPA's Selection Official may consider the following factors if, and as, appropriate. In their proposals, applicants should provide a summary on whether and how any of these applicable special considerations apply:

- Fair distribution of funds between urban and non-urban areas including an equitable distribution to “micro” communities (those communities with populations of 10,000 or less). EPA strongly encourages non-urban communities, including “micro” communities to apply.
- A balanced distribution of funds among EPA's ten Regions and among the states and territories or the project is assisting a Tribe or territory;
- Compliance with the 25 percent statutory petroleum funding allocation;
- Whether the applicant is a federally recognized Indian tribe or United States territory;
- The need to provide funding to address specific types of contamination identified in the Brownfields law such as whether a site is mine-scarred or contaminated with controlled substances;
- The needs of communities adversely affected by natural disasters (2006 or later);
- Whether the project primarily focuses on Phase II assessments;
- Demonstrated firm leveraging commitments for facilitating brownfield project completion by identifying amounts and contributors of funding in the proposal and have included documentation;
- Community experienced manufacturing plant closure(s) (2008 or later) tied to the targeted brownfield sites or project area, including communities experiencing auto plant closures due to bankruptcy or economic disruptions;
- Whether the applicant is a recipient or a core partner of a HUD-DOT-EPA Partnership for Sustainable Communities (PSC) grant that is directly tied to the project area, and can demonstrate that funding from a PSC grant has or will benefit the project area. To be considered, **the applicant must attach documentation** which demonstrates this connection to a HUD-DOT-EPA PSC grant;
- Recent (2008 or later) significant economic disruption (unrelated to a natural disaster or manufacturing/auto plant closure) has occurred within community, resulting in a significant percentage loss of community jobs and tax base;

- Whether the applicant is a recipient of an EPA Brownfields Area-Wide Planning grant; and
- Communities implementing green remediation plans.

**V.D. Proposal Checklist for Cleanup Grants.**

Before you submit your proposal(s) for a cleanup grant, please ensure the following documents are included in your package submitted to the EPA’s contractor.

<input checked="" type="checkbox"/> Transmittal Letter (2-page limit)	
<input checked="" type="checkbox"/> The Narrative Proposal, which includes the responses to ranking criteria (15-page limit)	
<input checked="" type="checkbox"/> Documentation of all applicable threshold criteria (see Section III. B and C)	
<input checked="" type="checkbox"/> Letter from the state or tribal environmental authority (see Section III.C.2.)	
<input checked="" type="checkbox"/> Draft Analysis of Brownfields Cleanup Alternatives (ABCA) (see FAQ #71 and Section III.C.6.)	
<input checked="" type="checkbox"/> Documentation indicating committed firm leveraged resources, if applicable (see Section V.B.2.b)	
<input checked="" type="checkbox"/> Letters of support from all community-based organizations identified in the community engagement and partnerships ranking criteria (see Section V.B.3.)	
<input checked="" type="checkbox"/> Documentation of community notification, including copies of ads (or equivalent) and comments received by you, your organization’s responses to those comments, and meeting notes and sign-in sheets (see Section III.C.6.)	
<input checked="" type="checkbox"/> Documentation of nonprofit status, if applicable (see Section III.C.1.)	
<input checked="" type="checkbox"/> Documentation of applicant eligibility if other than city, county, state, or tribe (see Section III.C.1.)	
<input checked="" type="checkbox"/> Justification for cleanup cost-share waiver, if applicable (see Section III.C.5.)	
<input checked="" type="checkbox"/> Property-Specific Determination request, if applicable (see Section III.C.3.d.)	
<input checked="" type="checkbox"/> Petroleum eligibility determination information, if applicable (see Section III.C.3.i.)	
<input checked="" type="checkbox"/> Other Factors Checklist (located in Appendix 3), if applicable (see Section IV.C.2.j)	

**SECTION VI - AWARD ADMINISTRATION INFORMATION**

**VI.A. Award Notices**

EPA Regions will notify applicants who fail threshold eligibility requirements within 15 calendar days of the Agency’s determination of ineligibility. EPA will notify applicants who have not been selected for award based on the ranking criteria and other factors within 15 calendar days of EPA’s final decision on selections for this competition.

EPA anticipates notification to successful applicants will be made via telephone or electronic or postal mail by Spring 2014. The notification will be sent to the original signer of the proposal or the project contact listed in the proposal. This notification, which informs the applicant that its proposal has been selected and is being recommended for award, is not an authorization to begin work. For example, if statutory funding or other issues are discovered during the award process

that may affect the ability of EPA to make an award to an applicant. The successful applicant must also prepare a work plan and submit application forms, which must be approved by EPA, before the grant can officially be awarded. The award notice, signed by an EPA grants officer, is the authorizing document and will be provided through postal mail. The time between notification of selection and award of a grant can take up to 90 days or longer.

## **VI.B. Administrative and National Policy Requirements**

1. Funding will be awarded as a cooperative agreement. The applicants whose proposals are selected will be asked to submit a cooperative agreement application package to their EPA Regional office. This package will include the application (Standard Form 424), a proposed work plan, a proposed budget, and other required forms. An EPA Project Officer will work with you to finalize the budget and work plan. It is EPA's expectation that the selected applicants will complete the award process within six months of the announcement.

Approved cooperative agreements will include terms and conditions (including any applicable Davis Bacon requirements) that will be binding on the grant recipient. Terms and conditions specify what grantees must do to ensure that grant-related and Brownfields Program-related requirements are met. Applicants also will be required to submit progress reports in accordance with grant regulations found in 40 CFR 30.51 or 40 CFR 31.40. A listing and description of general EPA regulations applicable to the award of assistance agreements may be viewed at

[http://www.epa.gov/ogd/AppKit/applicable\\_epa\\_regulations\\_and\\_description.htm](http://www.epa.gov/ogd/AppKit/applicable_epa_regulations_and_description.htm)

## **VI.C. Reporting Requirements**

During the life of the cooperative agreement, recipients are required to submit progress reports to the EPA Project Officer within 30 days after each reporting period. The reporting period (i.e., quarterly, annually) is set forth in the terms and conditions of the cooperative agreement. These reports shall cover work status, work progress, difficulties encountered, an accounting of financial expenditures, preliminary data results, anticipated activities, and any changes of key personnel involved with the project.

Grant recipients will be required to report site-specific accomplishments on Property Profile Forms and preferably submit them electronically to EPA's ACRES reporting system. Failure to comply with the reporting requirements may result in an early termination of the grant and return of grant funds.

At the end of the cooperative agreement, a final project report also is required. The final report will summarize accomplishments, expenditures, outcomes, outputs, lessons learned, and any other resources leveraged during the project and how they were used.

## **VI.D. Disputes**

Assistance agreement competition-related disputes will be resolved in accordance with the dispute resolution procedures published in 70 FR (Federal Register) 3629, 3630 (January 26, 2005) which can be found at <http://www.epa.gov/ogd/competition/resolution.htm>. Copies of

these procedures may also be requested by contacting the person listed in Section VII of the announcement.

## **VI.E. Brownfields Programmatic Requirements**

Brownfields grantees must comply with all applicable federal and state laws to ensure that the assessment and cleanup protects human health and the environment. Brownfields grantees also must comply with the program's technical requirements, which may include, but are not limited to, the following:

### 1. Quality Assurance (QA) Requirements

When environmental samples are collected as part of any brownfields cooperative agreement (e.g., assessment and site characterization, cleanup verification sampling, post-cleanup confirmation sampling), recipients shall submit to EPA for approval a **Quality Assurance Project Plan** (QAPP) prior to the collection of environmental samples. The QAPP must document quality assurance practices sufficient to produce data adequate to meet project objectives and minimize data loss. Compliance with the Quality Assurance requirements is an eligible use of funds for all three grant types.

### 2. Historic Properties or Threatened and Endangered Species

If historic properties or threatened or endangered (T&E) species may be impacted by the assessment or cleanup of a site, the requirements of the National Historic Preservation Act (NHPA) or the Endangered Species Act (ESA) may apply, respectively. Grantees are required to consult with EPA prior to conducting any on-site activity (such as invasive sampling or cleanup) that may affect historic properties or T&E species to ensure that the requirements of Section 106 of NHPA and Section 7(a)(2) of the ESA are met. Cleanup grantees should plan for these consultation requirements.

### 3. Environmental Cleanup Responsibilities

Cleanup and RLF grant recipients must complete the following mandatory activities in connection with cleanups conducted with brownfields funding. These activities are all eligible costs.

While the following uses specific terms, EPA anticipates that the majority of the cleanups will be performed through state voluntary cleanup programs (VCPs). As such, the state programs may call these documents by different names. It is EPA's intent that documents generated to meet the state's VCP requirements can serve to meet the mandatory requirements listed below as long as they cover the same elements and include the necessary information.

a. Analysis of Brownfield Cleanup Alternatives (ABCA)

Prepare an **analysis of brownfield cleanup alternatives**, considering site characteristics, surrounding environment, land-use restrictions, potential future uses, and cleanup goals. The ABCA must be signed by an authorized representative of the grant recipient and the ABCA must include:

- i) Information about the site and contamination issues (e.g., exposure pathways, identification of contaminant sources, etc.), cleanup standards, applicable laws, alternatives considered, and the proposed cleanup.
- ii) Effectiveness, implementability, and the cost of the proposed cleanup.
- iii) Evaluate the resilience of the remedial options in light of reasonably foreseeable changing climate conditions (e.g., sea level rise, increased frequency and intensity of flooding and/or extreme weather events, etc.).
- iv) An analysis of reasonable alternatives including no action. For cleanup of brownfield petroleum-only sites, an analysis of cleanup alternatives must include considering a range of proven cleanup methods including identification of contaminant sources, exposure pathways, and an evaluation of corrective measures. The cleanup method chosen must be based on this analysis.
- v) The alternatives may consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable.

b. Community Relations and Public Involvement in Cleanup Activities

Recipients must prepare a **site-specific community relations plan** describing how the recipient plans to satisfy the public involvement requirements below. The plan must be submitted to EPA before providing notice to the general community regarding the ABCA. At a minimum, public involvement for cleanup activities requires:

- i) **Notice of the ABCA's** or its equivalent's **availability** to the general community and the opportunity for the public to provide comments (written or oral) on the ABCA.
- ii) Preparation of **written responses** to significant and appropriate **comments**, and documentation of any changes to the cleanup plan.
- iii) Preparation of an **administrative record** and **notification** to the public of its **availability** for inspection at a location convenient to the targeted population and general public. The administrative record must contain the documents that form the basis for the selection and implementation of a cleanup plan. Documents in the administrative record shall include the ABCA, site investigation reports, the cleanup plan, cleanup standards used, responses to public comments, and verification that shows that cleanups are complete.

c. Implementation and Completion of Cleanup Activities

Recipients **shall ensure the adequacy of each cleanup** in protecting human health and the environment as it is implemented. Regarding occupational safety and health, brownfields cleanups must comply with either all applicable General Industry standards (29 CFR Part 1910) or all applicable Construction standards (29 CFR Part 1926), depending on work operations at the site. In addition, if a site is determined to be a “hazardous waste site,” that site must comply with the Hazardous Waste Operations and Emergency Response (HAZWOPER) standard 29 CFR. §1910.120.

In the event of an incomplete cleanup, the recipient shall ensure that the site is secure and notify the appropriate state agency and the U.S. EPA to ensure an orderly transition should additional activities become necessary.

Recipients shall ensure that the **successful completion** of the cleanup is properly **documented**. This must be done through a final report or letter from a qualified environmental professional, or other documentation provided by a state or tribe that shows the cleanup is complete. This documentation needs to be included as part of the administrative record.

#### 4. Sufficient Progress

EPA will evaluate whether the recipient has made sufficient progress 18 months from the date of award. For purposes of the Cleanup Grants, “sufficient progress in implementing a cooperative agreement” means that an appropriate remediation plan is in place, institutional control development, if necessary, has commenced, initial community involvement activities have taken place, relevant state or tribal pre-cleanup requirements are being addressed and a solicitation for remediation services has been issued. If EPA determines that the recipient has not made sufficient progress, the recipient must implement a corrective action plan approved by EPA. Failure to comply with the reporting requirements may result in an early termination of the grant and return of grant funds to the EPA.

#### 5. Collection of Post-Grant Information

Under the Government Performance and Results Act, EPA reports on the many benefits of brownfields funding. One such measure provides information on additional resources leveraged as a result of the use of brownfields grant funds. These leveraged, non-EPA funds may include additional cleanup funds or redevelopment funding from other federal agencies, state, tribal, and local governments, or private organizations. As many of these activities occur beyond the grant period, please note that EPA may contact you well after the grant period of performance to collect this information.

## 6. Protection of nearby and sensitive populations

Grantees are required to protect all nearby populations, including sensitive populations in the targeted community from contaminants during cleanup work conducted on brownfield sites under this grant. Activities include implementing procedures necessary to mitigate any potential exposure from the contamination

### **VI.F. Subaward and Executive Compensation Reporting**

Applicants must ensure that they have the necessary processes and systems in place to comply with the subaward and executive total compensation reporting requirements established under OMB guidance at 2 CFR Part 170, unless they qualify for an exception from the requirements, should they be selected for funding.

### **VI.G. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements**

Unless exempt from these requirements under OMB guidance at [2 CFR Part 25](#) (e.g., individuals), applicants must:

1. Be registered in the CCR prior to submitting an application or proposal under this announcement. CCR/SAM information can be found at <https://www.sam.gov/portal/public/SAM/>.
2. Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or proposal under consideration by an agency, and
3. Provide its DUNS number in each application or proposal it submits to the agency. Applicants can receive a DUNS number, at no cost, by calling the dedicated toll-free DUNS Number request line at 1-866-705-5711, or visiting the D&B website at: <http://www.dnb.com>.

If an applicant fails to comply with these requirements, it will, should it be selected for award, affect their ability to receive the award.

Please note that the CCR has been replaced by the System for Award Management (SAM). To learn more about SAM, go to [SAM.gov](#) or <https://www.sam.gov/portal/public/SAM/>.

### **VI.H. Website References in Solicitations**

Any non-federal websites or website links included in this solicitation are provided for proposal preparation and/or informational purposes only. EPA does not endorse any of these entities or their services. In addition, EPA does not guarantee that any linked, external websites referenced in this solicitation comply with Section 508 (Accessibility Requirements) of the Rehabilitation Act.

### **VI.I. Unfair Competitive Advantage**

EPA personnel will take appropriate actions in situations where it is determined that an applicant may have an unfair competitive advantage, or the appearance of such, in competing for awards under this announcement. Affected applicants will be provided an opportunity to respond before any final action is taken.

### **VI.J. Use of Funds**

An applicant that receives an award under this announcement is expected to manage assistance agreement funds efficiently and effectively and make sufficient progress towards completing the project activities described in the work-plan in a timely manner. The assistance agreement will include terms/conditions implementing this requirement.

### **VI.K. Unpaid Federal Tax Liabilities and Felony Convictions for Non-Profit and For-Profit Organizations**

Awards made under this announcement are subject to the provisions originally contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, Public Law 112-74, Division E, Title IV, Sections 433 and 434 regarding unpaid federal tax liabilities and federal felony convictions, which have been continued in subsequent appropriations. These provisions prohibit EPA from awarding funds made available by the Act to any for-profit or non-profit organization: (1) subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; or (2) that was convicted (or had an officer or agent of such corporation acting on its behalf convicted) of a felony criminal conviction under any Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation, or such officer or agent, based on these tax liabilities or convictions, and determined that such action is not necessary to protect the Government's interests. Non-profit or for-profit organizations that are covered by these prohibitions are ineligible to receive an award under this announcement.

### **VI.L. Data Access and Information Release**

EPA has the right to obtain, reproduce, publish, or otherwise use the data first produced under the awards to be made under this solicitation and authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes under 40 C.F.R. § 30.36(c). In addition, pursuant to 40 C.F.R. § 30.36(d), if EPA receives a Freedom of Information Act request for research data that (1) relates to published research findings produced under an EPA award and (2) was used by the Federal Government in developing an agency action that has the force and effect of law, then EPA shall request, and the award recipient shall provide, within a reasonable time, the research data so that it may be made available to the public through procedures established under the FOIA.

### **VI.M. Unliquidated Obligations**



An applicant that receives an award under this announcement is expected to manage assistance agreement funds efficiently and effectively and make sufficient progress towards completing the project activities described in the work-plan in a timely manner. The assistance agreement will include terms/conditions implementing this requirement.

#### **VI.N. Copyrights**

In accordance with 40 CFR 31.34 (for state, local and Indian tribal governments) or 40 CFR 30.36, as applicable, EPA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes, copyrighted works developed under a grant, subgrant or contract under a grant or subgrant. Examples of federal purpose include but are not limited to: (1) Use by EPA and other federal employees for official Government purposes; (2) Use by federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in federal depositories; (5) Use by state, tribal and local governments that carry out delegated federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction; and (6) Limited use by other grantees to carry out federal grants provided the use is consistent with the terms of EPA’s authorization to the grantee to use the copyrighted material.

#### **VI.O. Restrictions on Use of Federal Funds**

All costs incurred under this program must be allowable under 40 CFR 30.27 or 40 CFR 31.22, as applicable, and the applicable Office of Management and Budget (OMB) Cost Circulars: 2 CFR Part 225 (State, local, or Indian tribal governments), 2 CFR Part 230 (non-profit organizations), or 2 CFR Part 220 (Educational institutions). Copies of these circulars can be found at <http://www.whitehouse.gov/omb/circulars/>. In accordance with applicable law, regulation, and policy, any recipient of funding must agree to comply with restrictions on using assistance funds for unauthorized lobbying, fund-raising, or political activities (i.e., lobbying members of Congress or lobbying for other federal grants, cooperative agreements, or contracts). Funds generally cannot be used to pay for travel by federal agency staff. Proposed project activities must also comply with all state and federal regulations applicable to the project area. The applicant must also review the solicitation for any other programmatic funding restrictions applicable to this program. If awarded funding, the recipient must refer to the terms and conditions of its award for other funding restrictions applicable to its award. It is the responsibility of the recipient to ensure compliance with these requirements.

## SECTION VII – AGENCY CONTACTS

### Regional Brownfields Contacts

REGION & STATES		ADDRESS/PHONE NUMBER
<b>EPA Region 1</b> <b>Frank Gardner</b> <a href="mailto:Gardner.Frank@epa.gov">Gardner.Frank@epa.gov</a>	<b>CT, ME, MA,</b> <b>NH, RI, VT</b>	5 Post Office Square Suite 100, Mail code: OSRR7-2 Boston, MA 02109-3912 <b>Phone</b> (617) 918-1278 <b>Fax</b> (617) 918-1291
<b>EPA Region 2</b> <b>Lya Theodoratos</b> <a href="mailto:Theodoratos.Lya@epa.gov">Theodoratos.Lya@epa.gov</a>	<b>NJ, NY, PR,</b> <b>VI</b>	290 Broadway 18th Floor New York, NY 10007 <b>Phone</b> (212) 637-3260 <b>Fax</b> (212) 637-4360
<b>EPA Region 3</b> <b>Tom Stolle</b> <a href="mailto:Stolle.Tom@epa.gov">Stolle.Tom@epa.gov</a>	<b>DE, DC, MD,</b> <b>PA, VA, WV</b>	1650 Arch Street Mail Code 3HS51 Philadelphia, PA 19103 <b>Phone</b> (215) 814-3129 <b>Fax</b> (215) 814-5518
<b>EPA Region 4</b> <b>Cindy J. Nolan</b> <a href="mailto:Nolan.Cindyj@epa.gov">Nolan.Cindyj@epa.gov</a>	<b>AL, FL, GA,</b> <b>KY, MS, NC,</b> <b>SC, TN</b>	Atlanta Federal Center 61 Forsyth Street, S.W. 10TH FL Atlanta, GA 30303-8960 <b>Phone</b> (404) 562-8425 <b>Fax</b> (404) 562-8689
<b>EPA Region 5</b> <b>Linda Mangrum</b> <a href="mailto:mangrum.linda@epa.gov">mangrum.linda@epa.gov</a>  <b>Kelley Moore</b> <a href="mailto:moore.kelley@epa.gov">moore.kelley@epa.gov</a>	<b>IL, IN, MI,</b> <b>MN, OH, WI</b>	77 West Jackson Boulevard Mail Code SM-7J Chicago, IL 60604-3507 <b>Linda: Phone</b> (312) 353-2071 <b>Fax</b> (312) 385-5389 <b>Kelley: Phone</b> (312) 886-3598 <b>Fax</b> (312) 692-2199
<b>EPA Region 6</b> <b>Amber Perry</b> <a href="mailto:Perry.Amber@epa.gov">Perry.Amber@epa.gov</a>	<b>AR, LA, NM,</b> <b>OK, TX</b>	1445 Ross Avenue, Suite 1200 (6SF-VB) Dallas, TX 75202-2733 <b>Phone</b> (214) 665-3172 <b>Fax</b> (214) 665-6660
<b>EPA Region 7</b> <b>Susan Klein</b> <a href="mailto:Klein.Susan@epa.gov">Klein.Susan@epa.gov</a>	<b>IA, KS, MO,</b> <b>NE</b>	11201 Renner Blvd Lenexa, KS 66219 <b>Phone</b> (913) 551-7786 <b>Fax</b> (913) 551-9786
<b>EPA Region 8</b> <b>Dan Heffernan</b> <a href="mailto:Heffernan.Daniel@epa.gov">Heffernan.Daniel@epa.gov</a>	<b>CO, MT, ND,</b> <b>SD, UT, WY</b>	1595 Wynkoop Street (EPR-B) Denver, CO 80202-1129 <b>Phone</b> (303) 312-7074 <b>Fax</b> (303) 312-6065
<b>EPA Region 9</b> <b>Noemi Emeric-Ford</b> <a href="mailto:Emeric-Ford.Noemi@epa.gov">Emeric-Ford.Noemi@epa.gov</a>	<b>AZ, CA, HI,</b> <b>NV, AS, GU</b>	600 Wilshire Blvd. Suite 1460 Los Angeles, CA 90017 <b>Phone</b> (213) 244-1821
<b>EPA Region 10</b> <b>Susan Morales</b> <a href="mailto:Morales.Susan@epa.gov">Morales.Susan@epa.gov</a>	<b>AK, ID, OR,</b> <b>WA</b>	1200 Sixth Avenue, Suite 900, Mailstop: ECL-112 Seattle, WA 98101 <b>Phone</b> (206) 553-7299 <b>Fax</b> (206) 553-0124

# Appendix 1

## Information on Sites Eligible for Brownfields Funding Under CERCLA §104(k)

### 1.1 Introduction

The information provided in this Appendix will be used by EPA in determining the eligibility of any property for brownfields grant funding. The Agency is providing this information to assist you in developing your proposal(s) for funding under CERCLA §104(k) and to apprise you of information that EPA will use in determining the eligibility of any property for brownfields grant funding.

**This information is used by EPA solely to make applicant and site eligibility determinations for Brownfields grants and is not legally binding for other purposes including federal, state, or tribal enforcement actions.**

### 1.2 General Definition of Brownfield Site

**The Brownfields Law defines a “Brownfield Site” as:**

“...real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”  
Brownfield sites include all “real property,” including residential, as well as commercial and industrial properties.

### 1.3 Additional Areas Specifically Eligible for Funding

The Brownfields Law also identifies three additional types of properties that are specifically eligible for funding:

1. Sites contaminated by **controlled substances**.
2. Sites contaminated by **petroleum or a petroleum product**.
3. **Mine-scarred lands**.

See below for guidance on determining the scope of each of these three types of sites. Applicants should identify properties included within their funding proposals that fall within the scope of any of the following three areas.

#### 1.3.1 Contamination by Controlled Substance

Sites eligible for funding include real property, including residential property, that is contaminated by a controlled substance. A “controlled substance” is defined under the Controlled Substances Act as “a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this title (21 USC Section 812). The term does not include distilled spirits, wine, malt beverages, or tobacco...” For example, sites eligible for brownfields funding may include private residences formerly used for the manufacture and/or

distribution of methamphetamines or other illegal drugs where there is a presence or potential presence of controlled substances or pollutants, contaminants, or hazardous substances (e.g., red phosphorous, kerosene, acids).

### **1.3.2 Contamination by Petroleum or Petroleum Product**

Petroleum-contaminated sites must meet certain requirements to be eligible for brownfields funding. Petroleum is defined under CERCLA as “crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under that section.”

For a petroleum-contaminated site(s) that otherwise meets the definition of a brownfield site to be eligible for funding, EPA or the state must determine:

1. The site is of “relatively low risk” compared with other “petroleum-only” sites in the state.
2. There is no viable responsible party.
3. The site will not be assessed, investigated, or cleaned up by a person that is potentially liable for cleaning up the site.
4. The site must not be subject to a corrective action order under the Resource Conservation and Recovery Act (RCRA) §9003(h).

Site-specific assessment or cleanup grant proposals for petroleum-contaminated sites must provide information in their proposal indicating whether the site meets each of the criteria listed above. If EPA awards an applicant a revolving loan fund grant, the state or EPA must make the same determinations for site(s) that will be cleaned up under a loan or subgrant. These criteria are explained below.

**Please note that states may, but are not required, to use this guidance to determine whether sites contaminated by petroleum or petroleum products are eligible for brownfields grant funding. States may apply their own laws and regulations, if applicable, to eligibility determinations under this section.**

**Note: A petroleum eligibility determination by the EPA or a state under CERCLA section 101(39)(D) for the purpose of brownfields funding does not release any party from obligations under any federal or state law or regulation, or under common law, and does not impact or limit EPA or state enforcement authorities against any party.**

“Relatively Low Risk”

Applicants whose brownfield site(s) include properties or portions of properties contaminated with petroleum or petroleum products must provide information in their proposal indicating that the property represents a relatively low risk (compared to other petroleum-only sites). EPA’s view is that the following types of petroleum-contaminated sites are high-risk sites, or are not of “relatively low risk”:

1. “High risk” sites currently being cleaned up using LUST trust fund monies.
2. Any petroleum-contaminated site that currently is subject to a response under the Oil Pollution Act (OPA).

**Note: Any site that does not fall under any of the provisions listed above would be considered to be of relatively low risk for purposes of determining eligibility for a brownfields grant.**

“A Site for Which There is No Viable Responsible Party”

EPA or the state is required to determine that there is no viable responsible party that can address the petroleum contamination at the site. If EPA, or the state, identifies a party that is responsible for the activities contemplated by the grant proposal, and that party is financially viable, then the site is not eligible for funding and EPA cannot award the grant. This analysis is twofold - EPA or the state must first determine whether a responsible party exists and, if a responsible party is identified, then determine whether that party is viable for the activities identified in the grant proposal. Applicants are responsible for providing information in their proposal that demonstrates that the activities for which they seek funding have no viable responsible party.

A petroleum-contaminated site may be determined to have no responsible party if the site was last acquired (regardless of whether the site is owned by the applicant) through tax foreclosure, abandonment, or equivalent government proceedings, and that the site meets the criteria in (1) below. Any petroleum-contaminated site not acquired by a method listed above will be determined to have a responsible party if the site fails to meet the criteria in both (1) and (2) below.

(1) No responsible party has been identified for the site through:

- (a) An unresolved judgment rendered in a court of law or an administrative order that would require any party (including the applicant) to conduct the activities (including assessment, investigation or cleanup) contemplated by the grant proposal.
- (b) An unresolved enforcement action by federal or state authorities that would require any party (including the applicant) to conduct the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal.
- (c) An unresolved citizen suit, contribution action, or other third party claim brought against the current or immediate past owner for the site that would, if successful, require the activities (including assessment, investigation, or cleanup) contemplated by the grant proposal to be conducted.

(2) The current and immediate past owner did not dispense or dispose of, or own the subject property during the dispensing or disposal of, any contamination at the site, did not exacerbate the contamination at the site, and took reasonable steps with regard to the contamination at the site.<sup>4</sup> For purposes of the grant program and these guidelines only, the current owner is the entity that will own the property at the time of grant submission. For cleanup grants, the current owner must be the applicant.

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<sup>4</sup> For purposes of determining petroleum brownfield grant eligibility, “reasonable steps with regard to contamination at the site” includes, as appropriate: stopping continuing releases, preventing threatened future releases, and preventing or limiting human, environmental, or natural resource exposure to earlier petroleum or petroleum product releases. Reasonable steps are discussed in more detail on pages 9-12 of EPA’s March 6, 2003, “*Common Elements*” guidance.

If no responsible party is identified above, then the petroleum-contaminated site may be eligible for funding. If a responsible party is identified above, EPA or the state must next determine whether that party is viable. If any such party is determined to be viable, then the petroleum-contaminated site is not eligible for funding.

If there is a responsible party for the site, the applicant should explain in its application what steps it took to determine a responsible party's financial status, and why the information presented indicates that the responsible party is not viable. A state making the "viable responsible party" determination for the applicant may use the standards contained in this Appendix or its own standard. If a state is not making the determination or a tribe is the applicant, EPA will follow the standard set forth in this Appendix. Note that any viability determination made by EPA is for purposes of the CERCLA Section 104(k) grant program only.

EPA will consider a party to be viable if the party is financially capable of conducting the activity (i.e., assessment, investigation, or cleanup) identified in the grant proposal.

Generally, EPA will consider ongoing businesses or companies (corporations, LLCs, partnerships, etc.) and government entities to be viable. EPA will generally deem a defunct or insolvent company and an individual responsible party to be not viable. EPA will apply these assumptions to its petroleum grant viability determinations, unless there is information suggesting that the assumption is not appropriate in a particular case (e.g., if there is information that an individual has adequate financial resources to address contamination at a site, or if there is information indicating an ongoing business is not, in fact, viable). An applicant should indicate if one of the above assumptions applies and provide support for the assertion. In circumstances not covered by one of the above assumptions, the applicant should explain why the responsible party is not viable.

An applicant seeking to determine the financial status (i.e., the viability) of a responsible party should consider consulting the following resources and any other resources it may deem to be useful to make this determination:

1. **Responsible Party:** Ask the responsible party for its financial information (tax returns, bank statements, financial statements, insurance policies designed to address environmental liabilities, etc.), especially if the responsible party is still associated with the site or is the applicant, and, therefore, will receive the benefit of the grant. An applicant that is a responsible party and claiming it is not viable should provide conclusive information, such as an INDIPAY or MUNIPAY analysis, on its inability to pay for the assessment or cleanup.
2. **Federal, State, and Local Records:** Federal, state, and local (i.e., county and city) records often provide information on the status of a business. An applicant that is a state or local government should at the very least search its own records for information on a responsible party. Examples of such resources include regulatory records (e.g., state hazardous waste records), Secretary of State databases, and property/land records.
3. **Public and Commercial Financial Databases:** Applicants also may obtain financial data from publicly available and commercial sources. Listed below are examples of sources for

financial data that applicants may consider. Please note that some commercial sources may charge fees. EPA does not endorse the use of any specific sources, and EPA will accept reliable data from other sources as part of a proposal for funding.

Examples of sources: Lexis/Nexus, Dun & Bradstreet reports, Hoover's Business Information, Edgar Database of Corporate Information, Thomas Register of American Manufacturers, The Public Register, Corporate Annual Reports, Internet search engines (Google, Ask).

#### Cleaned Up by a Person Not Potentially Liable

Brownfields funding may be awarded for the assessment and cleanup of petroleum-contaminated sites provided:

- (1) The applicant has not dispensed or disposed of or owned the property during the dispensing or disposal of petroleum or petroleum product at the site.
- (2) The applicant did not exacerbate the contamination at the site and took reasonable steps with regard to the contamination at the site.

#### Is not subject to any order issued under §9003(h) of the Resource Conservation and Recovery Act (RCRA)

Proposals that include requests for an assessment or direct cleanup grant to address petroleum-contaminated sites must not be subject to a corrective action order under RCRA §9003(h). If EPA awards an applicant a revolving loan fund grant, the state or EPA must make the same determination for site(s) that will be cleaned up under a loan or subgrant.

### **1.3.3 Mine-Scarred Lands**

Mine-scarred lands are eligible for brownfields funding. EPA's view is that "mine-scarred lands" are those lands, associated waters, and surrounding watersheds where extraction, beneficiation, or processing of ores and minerals (including coal) has occurred. For the purposes of this section, the definition of extraction, beneficiation, and processing is the definition found at 40 CFR 261.4(b)(7).

Mine-scarred lands include abandoned coal mines and lands scarred by strip mining.

#### Examples of coal mine-scarred lands may include, but are not limited to:

- Abandoned surface coal mine areas.
- Abandoned deep coal mines.
- Abandoned coal processing areas.
- Abandoned coal refuse areas.
- Acid or alkaline mine drainage.
- Associated waters affected by abandoned coal mine (or acid mine) drainage or runoff, including stream beds and adjacent watersheds.

#### Examples of non-coal hard rock mine-scarred lands may include, but are not limited to:

- Abandoned surface and deep mines.
- Abandoned waste rock or spent ore piles.

- Abandoned roads constructed wholly or partially of waste rock or spent ore.
- Abandoned tailings, disposal ponds, or piles.
- Abandoned ore concentration mills.
- Abandoned smelters.
- Abandoned cyanide heap leach piles.
- Abandoned dams constructed wholly or partially of waste rock, tailings, or spent ore.
- Abandoned dumps or dump areas used for the disposal of waste rock or spent ore.
- Acid or alkaline rock drainage.
- Waters affected by abandoned metal mine drainage or runoff, including stream beds and adjacent watersheds.

#### **1.4 Sites Not Eligible for Brownfields Funding**

The following three types of properties are not eligible for brownfields funding under the Brownfields Law, even on a property-specific basis. Applicants should not include these types of sites in the funding proposals.

- (1) Facilities listed or proposed for listing on the National Priorities List (NPL).
- (2) Facilities subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA.
- (3) Facilities that are subject to the jurisdiction, custody, or control of the United States government. Facilities owned by, or under the custody or control of, the federal government are not eligible for brownfields funding. EPA’s view is that this exclusion may not extend to:
  - a. Privately-owned, Formerly Used Defense Sites (FUDS);
  - b. Privately-owned, Formerly Utilized Sites Remedial Action Program (FUSRAP) properties; and
  - c. Other former federal properties that have been disposed of by the United States government.

Note that land held in trust by the United States government for an Indian tribe is not excluded from funding eligibility. In addition, eligibility for brownfields funding does not alter a private owner’s ability to cost recover from the federal government in cases where the previous federal government owner remains liable for environmental damages.

#### **1.5 Particular Classes of Sites Eligible for Brownfields Funding Only With Property-Specific Determinations**

The following special classes of property are generally ineligible brownfield sites unless EPA makes a “Property-Specific Determination” and determines they are eligible for funding:

- Properties subject to planned or ongoing removal actions under CERCLA.
- Properties with facilities that have been issued or entered into a unilateral administrative order, a court order, an administrative order on consent, or judicial consent decree or to which a permit has been issued by the United States or an authorized state under RCRA, FWPCA, TSCA, or SDWA.



- Properties with facilities subject to RCRA corrective action (§3004(u) or §3008(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures.
- Properties that are land disposal units that have submitted a RCRA closure notification or that are subject to closure requirements specified in a closure plan or permit.
- Properties where there has been a release of PCBs and all or part of the property is subject to TSCA remediation.
- Properties that include facilities receiving monies for cleanup from the LUST trust fund.

EPA's approval of Property-Specific Determinations will be based on whether or not awarding a grant will protect human health and the environment and either promote economic development or enable the property to be used for parks, greenways, and similar recreational or nonprofit purposes. Property-Specific Determination requests should be attached to your proposal and do not count in the 15-page limit. See the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf) for more information on how to prepare and submit a Property-Specific Determination.

### **1.5.1 Facilities Subject to CERCLA Removal Actions**

Properties (including parcels of properties) where there are removal actions may not receive funding, unless EPA makes a property-specific determination of funding eligibility.

EPA's view is that a removal may be identified by the occurrence of one of the following events, whichever occurs first in time: EPA issues an action memo; EPA issues an Engineering Evaluation/Cost Analysis approval memo; EPA mobilizes onsite; EPA issues a notice of federal interest to one or more potentially responsible parties (PRPs), which in emergencies may be made verbally; or EPA takes other actions that are consistent with a removal.

Once a removal action is complete, a property is eligible for brownfields funding without having to obtain a property-specific funding determination. EPA's view is that, solely for the purposes of eligibility to receive brownfields funding, a removal is complete when the actions specified in the action memorandum are met, or when the contractor has demobilized and left the site (as documented in the "pollution report" or POLREP). Applicants applying for brownfields funding for sites at which removal actions are complete must include documentation of the action being complete with their funding proposal.

Parcels of facilities not affected by removal action at the same property may apply for brownfields funding and may be eligible for brownfields funding on a property-specific basis. Property-specific funding decisions will be made in coordination with the on-scene coordinator (OSC) to ensure that all removals and cleanup activities at the property are conducted in safe and protective manners and to ensure that the OSC retains the ability to address all risks and contamination.

Please note that if a federal brownfields-funded site assessment results in identifying the need for a new removal action, the grantee may continue to expend assessment grant funds on additional

assessment activities. However, any additional expenditure of federal brownfields funds and any additional site assessment activities should be conducted in coordination with the OSC for the site.

### **1.5.2 Facilities to which a permit has been issued by the United States or an authorized state under the Resource Conservation and Recovery Act (RCRA), the Federal Water Pollution Control Act, the Toxic Substances Control Act, or the Safe Drinking Water Act**

Generally, in cases where a property or a portion of a property is permitted under the Resource Conservation and Recovery Act, Section §1321 of the Clean Water Act, the Safe Drinking Water Act, and/or the Toxic Substances and Control Act, the property, or portion of the property, may not receive funding without a property-specific determination. Therefore, applicants should review the following guidance regarding which types of permitted facilities may not receive funding unless EPA makes a property-specific determination to provide funding. Applicants should note that the exclusion for permitted facilities does not extend to facilities with National Pollutant Discharge Elimination System (NPDES) permits issued under the authorities of the Federal Water Pollution Control Act, but is limited to facilities issued permits under the authorities of the Oil Pollution Act (i.e., §1321 of FWPCA).

In cases where one or more portions of a property are not eligible for funding, the applicant should identify the specific permit and situation that causes the property to be excluded. In addition, the applicant must include, within the proposal, documentation that federal brownfields funding for the assessment or cleanup of the property will further the goals established for property-specific funding determinations as described in the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf).

In some cases, a facility may not have a permit or order because it is not in compliance with federal or state environmental laws requiring that it obtain a permit or the facility has failed to notify EPA of its regulatory status. Such facilities are not eligible for brownfields funding. For example, a RCRA treatment unit operator is required to obtain a permit and/or notify EPA of its operation. An operator that fails to fulfill those obligations will likely not have a permit or order as EPA will be unaware of its existence. Therefore, it is EPA's view that such facilities are ineligible to receive brownfields funds as a result of their failure to comply with a basic regulatory requirement. Additional guidance on the eligibility of RCRA-permitted facilities, including facilities under administrative or court orders, including corrective action orders, is provided in the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf).

### **1.5.3 RCRA Sites**

#### RCRA Facilities that are Eligible for Funding

EPA's view is that the following types of RCRA facilities are eligible for brownfields funding and do not require Property-Specific Determinations:

- a. RCRA interim status facilities that are not subject to any administrative or judicial order or consent decree;

- b. RCRA interim status facilities that are subject to administrative or judicial orders that do **not** include corrective action requirements or any other cleanup provisions (e.g., RCRA §3008(a) orders without provisions requiring the owner/operator to address contamination); and
- c. Parcels of RCRA facilities that are not under the scope of a RCRA permit or administrative or judicial order.

RCRA Facilities that Require Property-Specific Determinations

EPA’s view is that the following types of RCRA facilities **may not receive funding without a property-specific determination**:

- a. RCRA-permitted facilities.
- b. RCRA interim status facilities with administrative orders requiring the facility to conduct corrective action or otherwise address contamination, including facilities with orders issued under the authorities of RCRA §3008(a), §3008(h), §3013, and §7003.
- c. Facilities under court order or under an administrative order on consent or judicial consent decree under RCRA or CERCLA that require the facility to conduct corrective action or otherwise address contamination at the facility.
- d. Land disposal units that have notified EPA or an authorized state of their intent to close and have closure requirements specified in closure plans or permits.

**1.5.4 Land disposal units that have filed a closure notification under Subtitle C of RCRA and to which closure requirements have been specified in a closure plan or permit**

RCRA hazardous waste landfills that have submitted closure notifications, as required under 40 CFR 264.112(d) or 265.112(d), generally will not be funded. This may include permitted facilities that have filed notification of closure and for which EPA and/or an authorized state is proceeding with final closure requirements for the facility. For interim status facilities, this is done through approval of a closure plan submitted with closure notification. For permitted facilities, this is routinely done as a modification to the permit, requested by the facility at the time of closure notification.

Please note that RCRA hazardous waste landfills that have submitted closure notifications may be eligible for brownfields funding with a Property-Specific Determination.

**1.5.5 Sites Contaminated with PCBs**

The Brownfields Law excludes from funding eligibility portions of facilities where there has been a release of PCBs that are subject to remediation under TSCA.

EPA’s view is that all portions of properties **are eligible** for brownfields site assessment grants, except where EPA has initiated an involuntary action with any person to address PCB contamination. Also, it is EPA’s view that all portions of properties **are eligible** for cleanup and RLF grants, except where EPA has an ongoing action against a disposer to address PCB contamination. However, any portion of a property where EPA has initiated an involuntary action with any person to address PCB contamination and portions of properties where EPA has an ongoing action against a disposer to address PCB contamination will require a Property-Specific Determination to be eligible for brownfields funding, including:

- There is a release (or disposal) of any waste meeting the definition of “PCB remediation waste” at 40 CFR 761.3; **and**
- At which EPA has initiated an involuntary action with any person to address the PCB contamination. Such involuntary actions could include:
  - Enforcement action for illegal disposal;
  - Regional Administrator’s order to characterize or remediate a spill or old disposal (40 CFR 761.50(b)(3));
  - Penalty for violation of TSCA remediation requirements;
  - Superfund removal action; or
  - Remediation required under RCRA §3004(u) or §3004(v).

PCBs may be remediated under any one of the following provisions under TSCA:

- a. Section 761.50(b)(3), the directed characterization, remediation, or disposal action.
- b. Section 761.61(a), the self-implementing provision.
- c. An approval issued under §761.61(c), the risk-based provision.
- d. Section 761.61(b) to the level of PCB quantification (i.e., 1 ppm in soil).
- e. An approval issued under §761.77, the coordinated approval provision.
- f. Section 761.79, the decontamination provision.
- g. An existing EPA PCB Spill Cleanup Policy.
- h. Any future policy or guidance addressing PCB spill cleanup or remediation specifically addressing the remediation of PCBs at brownfield sites.

### **1.5.6 LUST Trust Fund Sites**

The Brownfields Law requires a Property-Specific Determination for funding at those sites (or portions of properties) for which assistance for response activity has been obtained under Subtitle I of RCRA from the LUST trust fund. EPA’s view is that this provision may exclude UST sites where money is being spent on actual assessment and/or cleanup of UST/petroleum contamination.

However, in cases where the state agency has used LUST trust fund money for state program oversight activities on an UST site, but has not expended LUST trust funds for specific assessment and/or cleanup activities at the site, the site would be eligible for brownfields funding and does not need a Property-Specific Determination. Such sites may receive brownfields funding on a property-specific basis, if it is determined that brownfields funding will protect human health and the environment and the funding will promote economic development or enable the creation of, preservation of, or addition to greenspace (see guidance on documenting eligibility for property-specific funding determinations provided in the Brownfields FAQ at: [http://www.epa.gov/brownfields/proposal\\_guides/FY14\\_FAQs.pdf](http://www.epa.gov/brownfields/proposal_guides/FY14_FAQs.pdf)).

**Examples of sites receiving LUST trust fund monies that EPA would consider to be good candidates to receive brownfields grants or loans:**

- a. All USTfields pilots (50 pilots).

- b. Sites (or portions of properties) where an assessment was completed using LUST trust fund monies and the state has determined that the site is a low-priority UST site, and therefore, additional LUST trust fund money cannot be provided for the cleanup of petroleum contamination, but the site still needs some cleanup and otherwise is a good candidate for economic revitalization.
- c. Sites (or portions of properties) where LUST trust fund money was spent for emergency activities, but then the site was determined to be ineligible for further expenditures of LUST trust funds, yet the site needs additional funding for continued assessment and/or cleanup that will contribute to economic revitalization of the site.

## **1.6 Eligible Response Sites/Enforcement Issues**

The Brownfields Law limits EPA's enforcement and cost recovery authorities at "eligible response sites" where a response action is conducted in compliance with a state response program. Section 101(40) of CERCLA defines an "eligible response site" by referencing the general definition of a "brownfield site" in §101(39)(A) and incorporating the exclusions at §101(39)(B). The law places further limitations on the types of properties included within the definition of an eligible response site, but grants EPA the authority to include within the definition of eligible response site, and on a property-specific basis, some properties that are otherwise excluded from the definition. Such property-specific determinations must be based upon a finding that limits on enforcement will be appropriate, after consultation with state authorities, and will protect human health and the environment and promote economic development or facilitate the creation of, preservation, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes. While the criteria appear similar to those for determining eligibility for funding on a property-specific basis, the determinations are distinct, will be made through a separate process, and may not be based on the same information requested in this document for property-specific funding determinations.

Also, please note that in providing funding for brownfield sites, and given that a limited amount of funding is available for brownfields grants, EPA's goal is to not provide brownfields funding to sites where EPA has a planned or ongoing enforcement action. While EPA does not intend that the existence of a planned or ongoing enforcement action will necessarily disqualify a site from receipt of brownfields funding, EPA does believe it is necessary that EPA be aware of the existence of any such action in making funding decisions. As a result, EPA will conduct an investigation to evaluate whether a site is, or will be, subject to an enforcement action under CERCLA or other federal environmental statutes. EPA is requesting that applicants identify ongoing or anticipated environmental enforcement actions related to the brownfield site for which funding is sought.

## Appendix 2 Grants.gov Proposal Submission Instructions

The electronic submission of your application must be made by an official representative of your institution who is registered with Grants.gov and is authorized to sign applications for Federal assistance. For more information on the registration requirements that must be completed in order to submit an application through grants.gov, go to <http://www.grants.gov> and click on “Applicants” on the top of the page and then go to the “Get Registered” link on the page. If your organization is not currently registered with Grants.gov, please encourage your office to designate an Authorized Organization Representative (AOR) and ask that individual to begin the registration process as soon as possible. Please note that the registration process also requires that your organization have a DUNS number and a current registration with the System for Award Management (SAM) and the process of obtaining both could take a month or more. Applicants must ensure that all registration requirements are met in order to apply for this opportunity through grants.gov and should ensure that all such requirements have been met well in advance of the submission deadline. Registration on grants.gov, SAM.gov, and DUNS number assignment is FREE.

To begin the application process under this grant announcement, go to <http://www.grants.gov> and click on “Applicants” on the top of the page and then “Apply for Grants” from the dropdown menu and then follow the instructions accordingly. Please note: To apply through grants.gov, you must use Adobe Reader software and download the compatible Adobe Reader version. For more information about Adobe Reader, to verify compatibility, or to download the free software, please visit <http://www.grants.gov/web/grants/support/technical-support/software/adobe-reader-compatibility.html>

You may also be able to access the application package for this announcement by searching for the opportunity on <http://www.grants.gov>. Go to <http://www.grants.gov> and then click on “Search Grants” at the top of the page and enter the Funding Opportunity Number, EPA-OSWER-OBLR13-05, or the CFDA number that applies to the announcement (CFDA 66.818), in the appropriate field and click the Search button. Alternatively, you may be able to access the application package by clicking on the Application Package button at the top right of the synopsis page for the announcement on <http://www.grants.gov>. To find the synopsis page, go to <http://www.grants.gov> and click “Browse Agencies” in the middle of the page and then go to “Environmental Protection Agency” to find the EPA funding opportunities.

**Proposal Submission Deadline:** Your organization’s AOR must submit your complete application package electronically to EPA through Grants.gov (<http://www.grants.gov>) no later than January 22, 2014, 11:59 p.m. EDT. Please allow for enough time to successfully submit your application process and allow for unexpected errors that may require you to resubmit. Please submit *all* of the application materials described below using the grants.gov application package that you downloaded using the instructions above. For additional instructions on completing and submitting the electronic application package, click on the “Show Instructions” tab that is accessible within the application package itself.

## **Application Materials**

**The following forms and documents are mandatory under this announcement:**

- I. Application for Federal Assistance (SF-424)
- II. Budget Information for Non-Construction Programs (SF-424A)
- III. Narrative Proposal including transmittal letter. See Section IV.C for details on the content of the narrative proposal and transmittal letter and the associated page limits.
- IV. Required Attachments. See Section IV.C of this announcement.

Applications submitted through grants.gov will be time and date stamped electronically. If you have not received a confirmation of receipt from EPA (not from grants.gov) within 30 days of the proposal deadline, please contact Jeanette Mendes at [mendes.jeanette@epa.gov](mailto:mendes.jeanette@epa.gov). Failure to do so may result in your proposal not being reviewed.





### Appendix 3 Other Factors Checklist

Please identify (with an **X**) which if any of the below items apply to your community or your project as described in your proposal. To be considered for an Other Factor, you must include the page number where each applicable factor is discussed in your proposal. EPA will verify these disclosures prior to selection and may consider this information during the evaluation process. If this information is not clearly discussed in your narrative proposal or in any other attachments, it will not be considered during the selection process.

<b>Other Factor</b>	<b>Page #</b>
Community population is 10,000 or less	
Federally recognized Indian tribe	
United States territory	
Applicant will assist a Tribe or territory	
Targeted brownfield sites are impacted by mine-scarred land	
Targeted brownfield sites are contaminated with controlled substances	
Recent natural disaster(s) (2006 or later) occurred within community, causing significant community economic and environmental distress	
Project is primarily focusing on Phase II assessments.	
Applicant demonstrates firm leveraging commitments for facilitating brownfield project completion by identifying amounts and contributors of funding in the proposal and have included documentation	
Community experienced manufacturing plant closure(s) (2008 or later) tied to the targeted brownfield sites or project area, including communities experiencing auto plant closures due to bankruptcy or economic disruptions.	
Recent (2008 or later) significant economic disruption (unrelated to a natural disaster or manufacturing/auto plant closure) has occurred within community, resulting in a significant percentage loss of community jobs and tax base.	
Applicant is a recipient or a core partner of a HUD-DOT-EPA Partnership for Sustainable Communities (PSC) grant that is directly tied to the project area, and can demonstrate that funding from a PSC grant has or will benefit the project area. To be considered, <b>applicant must attach documentation</b> which demonstrates this connection to a HUD-DOT-EPA PSC grant.	
Applicant is a recipient of an EPA Brownfields Area-Wide Planning grant	
Community is implementing green remediation plans.	
Climate Change (also add to "V.D Other Factors")	