CERCLA Section 128(a) State and Tribal Response Program Fiscal Year 2027 Frequently Asked Questions

EPA provides these Frequently Asked Questions and Answers to assist eligible States, Tribes, and Territories prepare a request for FY27 Section 128(a) State and Tribal Response Program funds.

Carefully review and follow the FY27 CERCLA Section 128(a) Funding Guidance for comprehensive information and instructions to request FY27 Section 128(a) funding. If the information in these FAQs differs from information in the statute, regulations, or the Funding Guidance, then the statute, regulations, or the Funding Guidance will govern.

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SECTION 128(a) EPA REGIONAL STATE AND TRIBAL BROWNFIELDS CONTACTS *11*

Q.1. What is Section 128(a) State and Tribal Response Program funding?

Section 128(a)[1] of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) authorizes a noncompetitive grant program to establish or enhance state[2] and tribal[3] response programs. These CERCLA Section 128(a) response program grants (hereinafter referred to as "Section 128(a)") are funded with Categorical State and Tribal Assistance Grant (STAG) appropriations and awarded in the form of a cooperative agreement, which is a type of assistance agreement that is used when there is substantial federal involvement with the recipient during the performance of an activity or project. Section 128(a) cooperative agreements are awarded and administered by EPA regional offices.

Check out the EPA Brownfields website, Section 128(a) Funding Guidance, and Section 128(a) Fact Sheet for more information.

Q.2. Who is eligible to request Section 128(a) funds?

Eligible entities for Section 128(a) funding are:

- A State, as defined in CERCLA § 101(27);
- An Indian tribe, as defined in CERCLA § 101(36); and
- Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002.

EPA will accept **one request** from each eligible State or Tribal Nation (as defined by CERCLA – see Q.3. and Q.4. below) that:

1. demonstrates that it has a response program that includes, or is taking reasonable steps to include, the four elements of a response program enumerated in CERCLA Section § 128(a)(2); **or** is a party to a voluntary response program Memorandum of Agreement (VRP MOA) with EPA; **AND**
2. maintains, and makes available to the public, a record of sites at which response actions have been completed in the previous year and are planned to be addressed in the upcoming year (see CERCLA Section 128(b)(1)(C)).

All first-time requestors are strongly encouraged to contact their Regional EPA Brownfields contacts, listed on the last page of this FAQ, prior to submitting their funding request.

States and Tribal Nations must define in their funding request the Section 128(a) response program(s) to which the funds will be applied and may designate a component of the state or Tribal Nation that will be EPA's primary point of contact. When EPA funds the Section 128(a) cooperative agreement,

[1] 42 USC 9628(a).

[2] The term "state" is defined in CERCLA § 101(27).

[3] The term "Indian tribe" is defined in CERCLA § 101(36). Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002, are also eligible for funding under CERCLA § 128(a).

cooperative agreement recipients (CARs) may distribute these funds among the appropriate state and Tribal agencies that are part of the Section 128(a) response program. This distribution must be clearly outlined in the final workplan.

Q.3. How is "State" defined in CERCLA?

CERCLA Section 101(27) defines "State" as "includ[ing] the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction."

Q.4. How is "Indian Tribe" defined in CERCLA?

CERCLA Section 101(36) defines "Indian Tribe" as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002, are also eligible for funding under CERCLA § 128(a).

Q.5. What documentation is required for Intertribal Consortia?

Intertribal consortia who request Section 128(a) funding must provide documentation that meets the requirements in 40 CFR 35.504(a) and (c). This documentation may be provided in any form that the consortium's tribal members prefer and is efficient from the consortium's perspective (examples include letter, email, conference call notes, transcription of a voicemail, resolution of the Board of Directors/Council Presidents, etc.). For more information, please reach out to your EPA Regional State & Tribal Brownfield Contact(s).

The purpose of this documentation is to demonstrate that all members of the consortium (within the United States) meet the eligibility requirements for the grant program and authorize the consortium to submit the funding request and receive the federal funding assistance.

The documentation should be provided to the appropriate EPA Regional State & Tribal Brownfield contact(s) along with the funding request documents by December 11, 2026. If additional time is needed to provide the necessary documentation, your EPA Regional State & Tribal Brownfield Contact(s) have the discretion to grant extra time (not to exceed 45 days) to comply with this requirement. However, the remainder of the required funding request documentation must still be provided to the Agency by December 11, 2026, deadline.

Q.6. When can eligible entities submit funding requests for FY27 Section 128(a) funds?

Requests for funding will be accepted from **September 30, 2026 – December 11, 2026.** EPA will not consider requests for FY27 Section 128(a) funding received after December 11, 2026.

Q.7. Where should funding requests be submitted?

Section 128(a) funding requests should be sent to the EPA Regional Office contact listed at the end of the Funding Guidance and this FAQ.

Q.8. What is the maximum amount of funding EPA will consider for this FY27 request?

EPA will consider funding requests up to a **maximum of $1 million** for FY27 Section 128(a) funding per CAR.

Note: Demand for this program is high and not all requests will be fully funded.

Q.9. What information should funding requests include?

States and Tribal Nations are not required to provide full draft workplans and budgets in their funding requests. Instead, information can be provided in a format similar to the optional, sample request form in Appendix B of the Funding Guidance. Note that the sample form in Appendix B is provided for convenience, and CARs who do not use this form will not be penalized for providing the information in a different format. EPA Regions may alter this sample form and may request additional information if it is deemed appropriate to fully understand the funding request. EPA Regions and CARs should work together to be sure CARs are providing sufficient information for their funding requests and may alter the sample form to memorialize those communications.

While CARs do not need to provide a full draft workplan, there must be enough detail to inform EPA how the CAR proposes to spend Section 128(a) funds. Requests that lack sufficient detail may not be funded.

CARs should work, as early as possible, with their EPA regional brownfields contact to ensure that the funding amount(s) requested can be reasonably spent in one year and that the funding request provides sufficient detail of the planned activities that correspond to the requested funding.

Q.10. When will FY27 funds be awarded?

EPA anticipates that the funds allocated pursuant to the FY27 128(a) Funding Guidance will be awarded in April-September 2027 (i.e., the third or fourth quarter of the federal fiscal year 2027). Section 128(a) cooperative agreements are awarded and administered by EPA regional offices; please contact your regional EPA Project Officer for more specific information on your region's cooperative agreement award timing.

Q.11. What is the project period for Section 128(a) funds?

EPA regional offices will determine the project period for each cooperative agreement. Depending on the EPA regional office's cooperative agreement policies, cooperative agreements may be for multiple years. CARs are encouraged to discuss this potential option with their regional EPA Project Officer.

Notwithstanding this potential overall structure, each cooperative agreement must still have an annual budget period tied to an annual workplan, because CARs must still submit annual funding requests to receive additional funds added to the agreement. Section 128(a) funding amounts cannot be guaranteed from year to year.

Q.12. How will EPA prioritize funding allocations of FY27 Section 128(a) funding?

There is very high demand for Section 128(a) funds, and not all requests can be fully awarded. As expressly stated in the Assistance Listing for 66.817, funding will be prioritized as follows:

(1) Funding for program development activities to establish or enhance the four elements of a state or Tribal response program and to enable states and Tribal Nations to comply with the public record requirement in Section 128(b)(1)(C), including activities related to institutional controls;

(2) Funding for program development activities to enhance the response program or the cleanup capacity of a state or Tribal response program;

(3) Funding for site-specific activities at eligible Brownfields sites, as defined in CERCLA Section 101(39)[4];

(4) Funding for environmental insurance mechanisms; and

(5) Funding to capitalize brownfields cleanup RLFs.[5]

Q.13. What are the eligible uses of Section 128(a) funds for site-specific activities?

Site-specific assessment and cleanup activities must establish or enhance the response program and be tied to the four elements. Site-specific assessments and cleanups can be both eligible and allowable if the activity is included in the workplan negotiated between the EPA regional office and the CAR, but activities must comply with all applicable laws and are subject to the following restrictions:

- Section 128(a) funds can only be used for assessments or cleanups **at sites that meet the definition of a Brownfields site at CERCLA Section 101(39)**.
- As provided in the Terms and Conditions of CERCLA 128(a) cooperative agreements, absent EPA Project Officer approval, no more than $350,000 per site assessment can be funded with Section 128(a) funds, and no more than $350,000 per site cleanup can be funded with Section 128(a) funds. States and Tribal Nations should work toward securing additional funding for site-specific activities by leveraging resources from other sources such as businesses, non-profit organizations, education and training providers, and/or federal, state, tribal, and local governments.
- As provided in the Terms and Conditions of CERCLA 128(a) cooperative agreements, absent EPA Project Officer approval, the state/Tribal Nation may not use funds awarded under this agreement to assess and/or cleanup sites owned or operated by the recipient or (in the case of Tribal Nations) held in trust by the United States Government for the recipient.
- Assessments and cleanups cannot be conducted at sites where the state is a potentially responsible party (PRP) pursuant to CERCLA Section 107, except when the state acquired the property before January 11, 2002, and has not caused or contributed to a release or threatened release of a hazardous substance at the property.

Q.14. What procurement procedures do Section 128(a) recipients need to follow?

Per federal grant regulations at 2 CFR § 200.317, when conducting procurement transactions under a Federal award, a State or Indian Tribe must follow the same policies and procedures it uses for

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[4] In addition to the requirement under Section 128(a)(2)(C)(ii) to provide for public comment on cleanup plans and site activities, EPA strongly encourages states and Tribes to seek public input regarding the priority of sites to be addressed—especially from local communities with health risks related to exposure to hazardous waste or other public health concerns, those in economically disadvantaged or remote areas, and those with limited experience working with government agencies.

[5] Capitalizing a revolving loan fund (RLF) for brownfields cleanup is authorized under CERCLA section 104(k)(3). These RLFs are subject to the same statutory requirements and cooperative agreement terms and conditions applicable to RLFs awarded under CERCLA section 104(k)(3), with one exception: the source of the funding would be the CERCLA 128(a) appropriation rather than the CERCLA 104(k) appropriation. Requirements include a 20% cost share (in the form of money, labor, material, or services from a non-federal source in compliance with 2 CFR 200.306) on the amount of Section 128(a) funds used for the RLF, the 5% limitation on eligible administrative costs, and a prohibition on using RLF loans or subgrants for response costs at a site for which the recipient may be potentially liable under section 107 of CERCLA. Other prohibitions relevant to CERCLA section 104(k)(4) also apply. If a portion of the Section 128(a) grant funds requested will be used to capitalize a RLF for cleanup, pursuant to CERCLA section 104(k)(3), two separate cooperative agreements must be awarded (i.e., one for the RLF and one for non-RLF uses). CARs must, however, submit one initial request for funding, delineating the RLF as a proposed use. If a CAR chooses to use its Section 128(a) funds to capitalize a RLF program, the CAR must have the lead authority to manage the program (e.g., hold funds, make loans, enter into loan agreements, collect repayment, access and secure the site in event of an emergency or loan default). If the agency/department listed as the point of contact for the Section 128(a) cooperative agreement does not have this authority, it must be able to demonstrate that another agency within that state or Tribal Nation has the authority to manage the RLF and is willing to do so.

procurements with non-Federal funds. If such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards in §§ 200.318 through 200.327. In addition to its own policies and procedures, a State or Indian Tribe must also comply with the following procurement standards: §§ 200.321, 200.322, 200.323, and 200.327. All other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow the procurement standards in §§ 200.318 through 200.327.

Q.15. Are NEPA requirements applicable to cleanups conducted under the CERCLA Section 128(a)?

No. The process for issuing State and Tribal Response Program Grants under Section 128(a) is functionally equivalent to the National Environmental Policy Act (NEPA) requirements.

Specifically, the grant award process for Section 128(a) grants considers both environmental factors and public involvement. The terms and conditions for Section 128(a) grants require public notification and public involvement for brownfield activities, as well as an abbreviated analysis of cleanup alternatives. For example, the recipient must produce and maintain in their records, a site-specific Community Involvement Plan (CIP) and site-specific cleanup plan, which includes an abbreviated analysis of cleanup alternatives and related environmental impacts. The recipient is also required to maintain a public record system.

Q.16. Is there a cap on the amount of funds that can be used for site-specific activities?

CARs may use Section 128(a) funding for site-specific activities that improve state or Tribal capacity. However, the terms and conditions of the CERCLA 128(a) cooperative agreement will provide that the amount recipients may utilize for site-specific assessments and cleanups **may not exceed 50% of the total amount of FY27 Section 128(a) funding**, absent an approved waiver request.

States and Tribal Nations should work toward securing additional funding for site-specific activities by leveraging resources from other sources such as businesses, non-profit organizations, education and training providers, and/or federal, state, tribal, and local governments.

Note: Oversight of assessment and cleanup activities performed by responsible parties (other than the state or Tribal Nation) does not count toward the 50% limit. The 50% cap also does not include personnel or supplies/equipment purchased in support of site-specific work.

Q.17. Can a CAR exceed the cap on site-specific activities?

In order to exceed the 50% site-specific funding limit, a state or Tribal Nation must submit a written waiver request to the EPA Project Officer; waiver requests must include the following information in the written justification:

- total amount requested for site-specific activities;
- percentage of the site-specific activities (assuming waiver is approved) in the total budget;
- site-specific activities that will be covered by this funding, and how these activities establish or enhance the response program and are tied to the four elements;
- how the affected community will be (or has been) involved in prioritization and planning of site work, especially those sites where there is a potential or known significant environmental impact to the community;
- whether (and if so, how) such work will benefit a small community and/or disadvantaged area; and
- an explanation of how this shift in funding will not negatively impact the state or Tribal Nation's core programmatic capacity (i.e., the ability to establish/enhance the four required elements of a response program) and how the core program activities will be maintained despite an increase in site-specific work. CARs must demonstrate that they have adequate funding from

other sources to effectively carry out work on the four elements for EPA to grant a waiver of the 50% limit on using 128(a) funds for site-specific activities.

The EPA Project Officer will review the waiver request and make a recommendation to OBLR. OBLR will review waiver requests based on the information in the written justification, the EPA Project Officer recommendation, and other information available to EPA. Waivers will be approved on a very limited basis. The EPA Project Officer will inform the CAR whether the waiver is approved.

Q.18. How can the affected community get involved in Section 128(a) site-specific activities?

States and Tribal Nations that perform site-specific activities should plan to directly engage with and involve affected communities. For example, a CIP could be developed to provide reasonable notice about a planned cleanup, as well as opportunities for the public to comment on the cleanup.

These community involvement activities are directly linked to the third element described in CERCLA Section 128(a)(2)(C), which stipulates that state and tribal response programs should include, or should be taking reasonable steps to include: "Mechanisms and resources to provide meaningful opportunities for public participation, including—

(i) public access to documents that the State, Indian tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities;
(ii) prior notice and opportunity for comment on proposed cleanup plans and site activities; and
(iii) a mechanism by which –
  (I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and
  (II) an appropriate State official shall consider and appropriately respond to a request under subclause (I)."

Q.19. What is the public record requirement?

Under CERCLA Section 128(b)(1)(C), states and Tribal Nations must:

- maintain and update, at least annually, or more often as appropriate, a public record that includes the name and location of sites at which response actions have been completed during the previous year;
- maintain and update, at least annually, or more often as appropriate, a public record that includes the name and location of sites at which response actions are planned in the next year; and
- identify in the public record whether or not the site, upon completion of the response action, will be suitable for unrestricted use. If not, the public record must identify the institutional controls relied on in the remedy and include relevant information concerning the entity responsible for oversight, monitoring, and/or maintenance of the institutional and engineering controls; and how the responsible entity is implementing those activities.

In order to make this record easily available to the public, EPA encourages states and Tribal Nations to use Section 128(a) funding to make such information available to the public on the internet. To reach communities that may not be able to readily access the internet, states and Tribal Nations are also encouraged to make the public record available in-print in public spaces such as libraries and other community gathering places.

Q.20. Does Section 128(a) funding have a cost share requirement?

No. States and Tribal Nations are not required to provide cost shares for Section 128(a) cooperative agreements, with the exception of Section 128(a) funds used to capitalize a Brownfields Revolving Loan Fund (RLF). If a state or Tribal Nation uses Section 128(a) funds to capitalize an RLF, there is a 20% cost share requirement as funds must be expended in accordance with CERCLA Section 104(k)(3).

Q.21. Can Section 128(a) funding be used at petroleum brownfield sites?

States and Tribal Nations may use Section 128(a) funds for activities that establish or enhance response programs addressing petroleum brownfield sites. Subject to the restrictions listed in the Funding Guidance for all site-specific activities, the costs of site-specific assessment and cleanup activities at petroleum brownfield sites, as defined in CERCLA section 101(39)(D)(ii)(II), are both eligible and allowable if the activity is included in the workplan negotiated between the EPA regional office and the state or Tribal Nation.

States and Tribal Nations are encouraged to reach out to their EPA regional brownfields contacts with questions on petroleum brownfield site eligibility and where to get additional information. Also check out resources on EPA's Brownfields website, such as Community Visions for Abandoned Gas Stations and EPA's Office of Underground Storage Tanks (OUST) Petroleum Brownfields webpage.

Q.22. Can Section 128(a) funds be placed in a Performance Partnership Grant (PPG)?

Yes, Section 128(a) funding from EPA's FY27 annual appropriation may be included in a PPG with the exception of funding to (1) provide CERCLA 128(a) TAG assistance under section 128(a)(I)(B)(ii)(III), (2) capitalize a revolving loan fund for brownfields remediation under section 104(k)(3), or (3) purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program.

Q.23. What are my reporting requirements for Section 128(a) funding?

See the Funding Guidance for details on the CAR's reporting requirements, such as progress reports, Program Activity Levels (PALs), public record, and updating State Brownfields and Voluntary Response Program information in EPA's ACRES database.

Q.24. What are Section 128(a) Technical Assistance Grants?

Section 128(a)(1)(B)(ii)(III) of CERCLA authorizes a noncompetitive $1.5 million technical assistance grant (Section 128(a) TAG) program **to assist small communities,[6] Indian tribes,[7] rural areas, or disadvantaged areas[8] to carry out activities outlined in CERCLA Section 104(k)(7)** (e.g. providing training, research, and technical assistance to individuals and organizations to facilitate the inventory of brownfields sites, site assessments, remediation of brownfield sites, community involvement, or site preparation).

These funds may not be used to augment an existing CERCLA 128(a) State and Tribal Response Program and may not be placed in PPGs.

[6] CERCLA Section 128(a)(1)(B)(iv)(II) defines small community as a community with a population of not more than 15,000 individuals, as determined by the President based on the latest available decennial census.
[7] CERCLA Section 101(36) defines Indian Tribe.
[8] CERCLA Section 128(a)(1)(B)(iv)(I) defines disadvantaged area as a community with an annual median household income that is less than 80 percent of the statewide annual median household income, as determined by the President based on the latest available decennial census.

Per the statute, the **maximum amount of funding allowed *per grant* is $20,000**. States and Tribal Nations may request up to three Section 128(a) TAGs in FY27.

Q.25. Who can request Section 128(a) TAG, and who must benefit from the TAG?

CARs with active CERCLA Section 128(a) grants who are requesting funds in FY27 are eligible to submit requests for up to three TAGs of $20,000 each to assist a small community, Indian tribe, rural area, or disadvantaged area. Multiple eligible communities may be assisted by one Section 128(a) TAG.

EPA's goal is that TAGs benefit as many communities as possible, therefore, if a CAR requests more than one Section 128(a) TAG, each grant should assist a different eligible beneficiary or different project. CARs should work with their EPA regional contact to discuss eligible beneficiaries and activities for TAGs.

Q.26. How do I request Section 128(a) TAG?

Appendix A of the Funding Guidance discusses what to include in a Section 128(a) TAG request and the factors EPA will consider when reviewing all requests.

Section 128(a) TAG requests will be accepted from **September 30, 2026 – March 5, 2027,** and should be sent to the EPA Regional Office contact listed at the end of the Funding Guidance and this FAQ.

Q.27. How can I get more information about Section 128(a) TAGs?

For additional information on Section 128(a) TAGs, including examples of eligible uses of the funds, see the Section 128(a) TAG fact sheet on the Brownfields website, and the ASTSWMO Section 128(a) TAG StoryMap.

Q.28. When will notification of allocation amounts take place?

EPA anticipates that the Regional EPA POs will notify CARs in April 2027, if Section 128(a) funding and Section 128(a) TAGs have been allocated to them. The CAR and EPA Region will then negotiate a final workplan based on the specific allocation of funds, which will be provided through a cooperative agreement award. All cooperative agreement applications for non-competitive assistance agreement awards must be submitted using Grants.gov.

NOTE: Recipients should submit their final workplan(s) via Grants.gov only after the allocation process is complete and the EPA Regional Project Officer has informed the CAR that it is time to do so (this will be in the Spring or Summer of 2027).

When the EPA Regional Project Officer has informed the CAR that it is time to do so, the CAR will submit their State and Tribal Response Program Grant applications via grants.gov using the following information:

Assistance Listing Number (formerly known as CDFA): 66.817

Funding Opportunity Number (FON): EPA-CEP-02

Q.29. What is the Unique Entity Identifier (UEI) Requirement?

States and Tribal Nations requesting funds are required to provide a free SAM.gov-issued UEI, not their DUNS number. Please see the RAIN-2021-G01 for information about EPA's implementation of the Government-wide transition from DUNS to UEI.

Q.30. How do I find more information about Section 128(a) funding?

For additional information, please contact the appropriate EPA regional Section 128(a) contact (listed below), and/or check out:

- EPA Brownfields Website
- Section 128(a) State and Tribal Response Program Grants
- CERCLA Section 128(a) Fact Sheet
- Section 128(a) Technical Assistance Grant (TAG) Fact Sheet

SECTION 128(a) EPA REGIONAL STATE AND TRIBAL BROWNFIELDS CONTACTS

REGION	STATE CONTACT	TRIBAL CONTACT
EPA Region 1 CT, ME, MA, NH, RI, VT	**AmyJean McKeown** Phone: (617) 918-1248 mckeown.amyjean@epa.gov	**AmyJean McKeown** Phone: (617) 918-1248 mckeown.amyjean@epa.gov
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EPA Region 3 DE, DC, MD, PA, VA, WV	**Chris Lesniak** Phone: (215) 814-5360 lesniak.christopher@epa.gov	**Michael McDonald** Phone: (215) 814-3308 mcdonald.michael.p@epa.gov
EPA Region 4 AL, FL, GA, KY, MS, NC, SC, TN	**Aditi Chakravarty** Phone: (404) 562-9515 chakravarty.aditi@epa.gov	**Aditi Chakravarty** Phone: (404) 562-9515 chakravarty.aditi@epa.gov
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