



FY15 Brownfields Guidelines: A Detailed Review of Assessment and Cleanup Grant Proposal Process

Webinar Call-in

1-866-299-3188

Conference Code

2158144321#

<https://epa.connectsolutions.com/epabftrain>
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guest.)

Agenda

- Introductions
- Administrative
- Overview of Types of Grants
- Proposal Guideline Tips
- Overview of Threshold Criteria
- Overview of Ranking Criteria
 - EPA Region 3 Webinars
November 19, 2014 (C)
November 20, 2014 (A)

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The purpose of this training webinar is to assist applicants with understanding the Assessment and Cleanup (AC) grant proposal guidelines so you can apply for AC grants.

Should any information provided in the following slides or by the presenter differ from the guidelines, the language written in the guidelines prevails.

Estimated FY15 Timeline



- Dec. 19, 2014: **Proposals Due (11:59 pm EST)**
- May 2015: Selections Announced
- June – Aug. 2015: Application (workplan and federal forms) submitted
- August 2014: Grants Awarded

Key Ideas



- Package proposal into understandable components (e.g., open space and commercial revitalization)
What is the “elevator pitch?”
- Catalyst/Leveraging: Why is your project a catalyst for land revitalization? Who are the partners that are going to help make it happen?
- Meaningful Community Engagement: Get the stakeholders involved upfront. Do more than typical community newspaper ads and council meeting.
- Responses to the criteria questions should clearly support the “package.”

Types of Grants



Assessment grants provide funding to inventory, characterize, assess, and conduct cleanup planning and community involvement related to brownfield sites.

Community-Wide

- Up to \$200,000 for hazsub and/or \$200,000 for petroleum
- No waiver of funding limit
- Maximum combined amount \$400,000
- Three (3) years
- May also apply for a site-specific grant; may not apply as a member of a coalition

Site-Specific

- Up to \$200,000 for hazsub or \$200,000 for petroleum
- May request a waiver for up to \$350,000
- Maximum combined amount \$350,000
- Three (3) years
- May also apply for a community-wide grant; may not apply as a member of a coalition

Coalition

- Up to \$600,000 for 3 or more eligible entities
- Assess minimum of 5 sites
- Maximum amount \$600,000
- May not apply for an individual community-wide or site-specific grant or as a part of another coalition
- Are meant to maximize grant funds across a broader area

Types of Grants



Cleanup grants provide funding to carry out cleanup activities at brownfield sites.

- Up to \$200,000 for three years
- Requires 20% cost share
- Applicant must be sole owner the site by December 19, 2014.
- Can submit up to three site-specific cleanup proposals
- A written ASTM E1903-11 or equivalent Phase II site assessment (a draft report is sufficient) must be completed prior to proposal submission.



GreenTimes.com.au

Proposal Guidelines



Proposal Content: See IV.C.

- Transmittal Letter – 2-page limit
- Narrative Proposal – 15-page limit
- Attachments – only the listed attachments and there's no page limit (page 25(A), page 27(C))
- 1" margins; 12-point font; single-spaced; no binders or staples (for ease of copying)
- Use page numbers and title your responses to threshold and ranking criteria per the headings.
- Appendix 3 (Other Factors Checklist) should be attached to the Transmittal Letter (doesn't count towards the 2-page limit).

Proposal Guideline TIPS



- Read entire Guidelines - 2 different booklets (Assessment and Cleanup)
- Write as though the reader knows **NOTHING** about your community
- Address **ALL** criteria – if it doesn't apply, say so and explain why
- Use the Proposal Checklist at the end of the Ranking Criteria section
- Avoid using acronyms and technical/organizational jargon
- Check Frequently Asked Questions (FAQs)
- Grants.gov will be available as a means of proposal submission
 - Applicants wishing to submit electronically should do so at: www.grants.gov
 - Registration in Grants.gov can take up to 2 weeks to be fully registered in the system.
 - **Easiest way is to submit a hard copy. Strongly Recommended** (Less forms required.) See slide #27



Occasionally, technical and other issues arise when using grants.gov. EPA encourages applicants to submit their proposals early.

Threshold vs. Ranking



- **Threshold** – minimum eligibility requirements (pass/fail)
- **Ranking** – criteria for selecting proposals (the scoring of your proposal)
- * Applicants must pass Threshold Criteria to advance to the Ranking stage and be considered for funding



Threshold Criteria Overview

- Assessment – pages 15-21
- Cleanup – pages 13-23



Failing threshold means
you will no longer be in the race!!

Threshold Criteria



Assessment	Revolving Loan Fund	Cleanup
Applicant Eligibility (Government entity)	Applicant Eligibility (Government entity)	Applicant Eligibility (Government entity/nonprofits)
Letter from the State Environmental Authority	Letter from the State Environmental Authority	Letter from the State Environmental Authority
	Oversight Structure and Legal Authority to Manage a RLF	Cleanup Authority and Oversight Structure
	20% Cost Share	20% Cost Share
Site Eligibility and Property Ownership Eligibility (site-specific proposals only)		Site Eligibility and Property Ownership Eligibility
Community Involvement		Community Notification (includes draft ABCA)
Letters from coalition members (coalition proposals)	Letters from coalition members	
	Description of Jurisdiction	

Letter from State or Tribal Environmental Authority



- CURRENT letter **acknowledging your specific proposal** and your plans to apply for a grant/s to conduct assessment and/or cleanup activities.
- If applying for multiple types of grants, only need to submit ONE letter acknowledging the relevant grant activities. EACH proposal must have the letter as an attachment.
- State and Tribal Authorities do not need to provide letter for themselves.



Do **not** substitute a letter from local or county oversight agencies.



Do **not** use a previous year's letter.

Site Eligibility

(Site-Specific Assessment and Cleanup Only)



Sites NOT Eligible

- National Priorities List (CERCLA)
- Facilities subject to orders or decrees under CERCLA
- Facilities that are subject to the jurisdiction, custody, or control of the U.S. government

Hazardous Substances Sites

- EPA will determine if site is eligible based on answers to Threshold Criteria

Co-Mingled Sites

- Co-mingled could be HS sites or petroleum sites (see prior discussion – what is predominant?)

Petroleum Sites

- State will determine if site is eligible
- Petroleum Eligibility Letter
 - Make requests of State early
 - Different from State Acknowledgement Letter
 - Attach to the Proposal



This works better if you run the site eligibility by the EPA (regional contact) before turning in your application.

Site Eligibility and Property Ownership

Eligibility - Hazardous Substance



Site -Specific Assessment and Cleanup Only. Generally, applicant must not be responsible for the contamination. Need to answer the following questions:

1. Who owns it?

- Applicant
- Private party

2. How was it acquired/AAI/Phase I?

- Did purchase include due diligence / all appropriate inquiry?
- Tax foreclosure, abandonment, or other government proceeding

3. Who Contaminated it?

- If Applicant, in most cases the site is not eligible
- Is there another Party?

4. Continuing Obligations: What happened on the property after acquisition?

- Property Vacant / fenced
- Leased to operator

What is AAI?

(Hazardous Substances)



- All Appropriate Inquiries (AAI) is the process of conducting due diligence or a Phase I Environmental Site Assessment to determine:
 - prior uses and property ownership
 - assess property conditions that may be indicative of releases or threatened releases of hazardous substances
- For purposes of obtaining a CERCLA liability protection, the owner must have conducted AAI prior to acquiring the property. AAI is typically met by conducting a Phase I environmental site assessment using the ASTM E1527-13 (or ASTM E2247-08) standard practice.

Property Ownership Eligibility

(Hazardous Substances) AAI requirements - Updates



- AAI Phase I must be performed within one year prior to acquisition
- Updates to AAI are required within 180 days prior to acquiring ownership
 - interviews of current and past owners
 - the review of government records
 - on-site visual inspection
 - searches for environmental cleanup liens

Property Ownership Eligibility

(Hazardous Substances) AAI requirements



- Conduct AAI prior to acquiring the property
- Comply with all Continuing Obligations after acquiring the property
- State and local governments acquiring property involuntarily through bankruptcy, tax delinquency, abandonment, or eminent domain, do not have to conduct AAI, but must exercise “due care” after acquiring the property

Property Ownership Eligibility

(Hazardous Substances) AAI requirements



- Guidance Documents

- CERCLA Liability and Local Government Acquisitions and Other Activities

<http://www.epa.gov/region1/brownfields/pdfs/RLFWorshopLiabilityFactSheet.pdf>

- EPA Brownfields Grants, CERCLA Liability, and All Appropriate Inquiries

<http://www.epa.gov/brownfields/aai/aaicerclafs.pdf>

- Revitalizing Contaminated Sites: Addressing Liability Concerns (The Revitalization Handbook)

<http://www2.epa.gov/sites/production/files/2014-06/documents/revitalization-handbook-2014-cleanup-enforcement.pdf>

Site Eligibility - Petroleum

(Site-Specific Assessment and Cleanup)



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

Cleanup Authority and Oversight Structure (Cleanup Proposals)



- Cleanup Oversight
 - Describe how you will oversee the cleanup. Is there a plan to enroll site in state response program?
- Property(s) Access Plan
 - Is there a plan to obtain access to adjacent properties, if needed?

Cost Share (Cleanup Proposal)



- 20% Cost Share Required
 - No need to exceed required amount
 - Cost share can be contribution of money, labor, materials, or services from a non-federal source.
 - Can only incurred for an eligible and allowable expense.
 - HUD CDBG funds is the only federal funding that can be used as a cost share.
 - Hardship Waiver can be requested.

Community Notification (Cleanup Proposal)



- Provide community with notice of intent to apply for a Brownfields grant.
- Provide an opportunity for the community to submit comments to your proposal by:
- Placing a community notification ad in your local newspaper or an equivalent means that you use to communicate to the targeted community(ies).
- Ad must be published at least two weeks prior to proposal submission. Two weeks from the proposal due date **(December 5, 2014)** would be the last day for publication.



Applicants who are submitting more than one proposal may have a single community notification ad 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.



- Ad must reference a public meeting (date and time) that must be held prior to proposal submittal to discuss the draft grant proposal and the draft Analysis of Brownfield Cleanup Alternatives (ABCA).
- 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 FAQs #70 and #71.
- Draft Proposal and Draft ABCA must be available for public review and comment and the ad must state where they are located (e.g., town hall, library, website).

Community Notification (Cleanup Proposal)



- Attach the following to your cleanup 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).

Community Involvement (Assessment Proposal)



- Demonstrate how you intend to inform and involve the community and other stakeholders during the planning, implementation, and other brownfields assessment activities described in your proposal.

How to Submit Proposal



- Hard Copy Submissions (Recommended Over Electronic Submissions)
- Proposals sent through the U.S. Postal Service or a commercial delivery service must be postmarked by December 19, 2014 or they will not be considered for funding.
- Mail one complete original proposal to:
Environmental Management Support, Inc.
Attn: Mrs. Edie Findeis Cromwell
8601 Georgia Avenue, Suite 500
Silver Spring, MD 20910
Phone 301-589-5318
(Note: Overnight mail must include Mrs. Cromwell's phone number in the address.)
- Mail complete copy of proposal to Tom Stolle (see Section VII).

Disclaimers



- EPA staff cannot provide individual assistance with proposals. However, if you have general questions about the Brownfields program or the Threshold Criteria, then that's allowed.
- This is a competitive grants process. Following today's tips will not guarantee your proposal will be funded.
- Read the Guidelines completely.

What are Brownfields?



- Property contaminated or potentially contaminated by hazardous substances, pollutants, contaminants, petroleum or controlled substances. Examples:
 - Abandoned gas stations
 - Abandoned commercial or industrial sites/factories
 - Dump sites
 - Mine-scarred land (strip mines, acid mine drainage, coal piles)
 - Illegal drug labs
 - Building contamination (lead paint/asbestos)
- Superfund NPL sites and federally owned land/facilities are **NOT** eligible Brownfields funding.
- Appendix 1 describes the different types of brownfield sites.

Brownfields ARC Grants – Getting Started



- Separate Proposal Guidelines for each grant type!
- Proposal Guidelines and Frequently Asked Questions for ARC Grants are at:

http://www.epa.gov/brownfields/news/index.htm#fy2014_barlf

Assessment Grant Program



Purpose: to inventory, characterize, assess, and conduct planning (including cleanup planning) and community involvement related to brownfield sites.

- No cost share required
- **Three kinds of grants – community-wide, site-specific (single site), and coalition**
- **Two lists 50% (new applicants and existing/former grantees).**

Assessment Grant Program



Community-Wide Assessment Grants

- Most Flexible - No need to identify sites.
- Up to \$200,000 for hazardous substances contamination (including asbestos, lead paint, other environmental hazards) and/or up to \$200,000 for petroleum contamination.
- Applicants can submit **ONE** community-wide assessment proposal for \$200k hazardous substances and \$200k petroleum, for a combined total of \$400k, or submit **TWO** separate proposals for each contamination type if it's for different target communities.

Assessment Grant Program



Site-Specific Assessment Grants

- Up to \$200,000 for petroleum or hazardous substances.
 - Can request up to \$350K per property with approved waiver. Must attach a one-page justification for the waiver request (see page 5 for criteria).
- Only 1 application per eligible entity allowed.
- There are site eligibility *Threshold Requirements*.
- Funding can be used for named site only. No substitutions allowed after the proposal has been submitted.

Assessment Grant Program



- If the site has both hazardous substance and petroleum contamination, and the hazardous substance and petroleum-contaminated areas of the site are distinguishable, the proposal must address both threshold eligibility criteria and indicate the dollar amount of funding requested for each type of contamination.
- If the petroleum and hazardous substances are not easily distinguishable, the applicant must indicate which contaminant is predominant based on available information and respond to the appropriate site eligibility criteria.

Assessment Grant Program



Coalition Assessment Grants

- Up to \$600,000 for hazardous substances and/or petroleum
- Fact Sheet
http://www.epa.gov/brownfields/grant_info/assess/acfs_062408.pdf
- Must be 3 or more eligible entities with different jurisdictions.
- Must assess a minimum of 5 sites.
- Must commit to sign a Memorandum of Agreement* (MOA) between all parties that details how the funds will be shared and decisions for the coalition will be made.

* See example MOA template -

http://www.epa.gov/brownfields/grant_info/assess/fy2009moa.pdf

Assessment Grant Program



How many to submit?

- Applicants can submit a combined community-wide assessment grant proposal (hazardous substances and petroleum) or two separate community-wide assessment grant proposals (for different target communities).
- Applicants can also apply for only one site-specific assessment grant.
- Coalition members are **NOT** eligible to apply for additional individual community-wide or site-specific assessment grants unless they withdraw from the coalition.

Assessment Applicant Options



An applicant applying for an assessment grant can do the following combinations:

- up to 2 grant proposals (1 community-wide not to exceed \$400k in total and 1 site-specific not to exceed \$350k) OR

- 1 grant as part of a coalition not to exceed \$600,000 (cannot apply for additional community-wide or site-specific assessment grants)

Community-Wide	Site-Specific	Coalition
Up to \$200,000 for hazardous substances <i>and/or</i> \$200,000 for petroleum addressing the same target community (prefer submission of one proposal)	Up to \$200,000 for hazardous substances <i>and/or</i> petroleum (See slide 15).	Up to \$600,000 for hazardous substances <i>and/or</i> petroleum <i>Coalition members CANNOT apply for individual assessment funding.</i>
Two separate proposals only if the target community is different	May request a waiver for up to \$350,000	No waiver of funding limit
Maximum Combined Amount \$400,000	Maximum Amount \$350,000	Maximum Amount \$600,000

Assessment Grant Program



What makes a good assessment grant project?

- Identified needs (targeted areas)
- Sites ready to go (owner cooperation)
- Development potential (plans adopted)

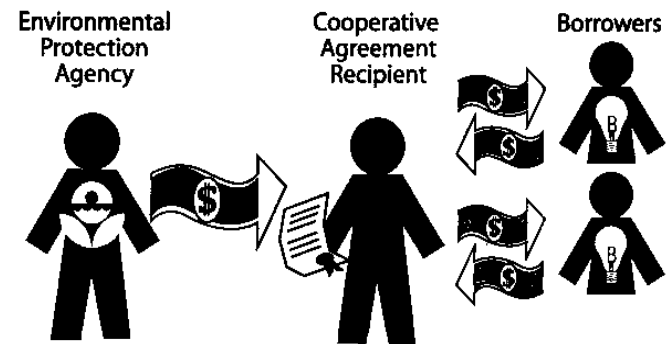


Revolving Loan Fund Grant Program



Purpose: To make low interest loans and subgrants to conduct cleanup activities – 10 will be awarded (estimate).

- Up to \$1M per eligible entity – combination of hazardous substances and petroleum funding
- Coalitions (of 2 or more applicants) may apply for \$1 million each
- **Cost share requirement of 20%**
- **Two lists 50% (new applicants and existing/former grantees).**



Revolving Loan Fund Grant Program



(con't)

- Up to 50% of total RLF funds can be used for subgrants to cleanup publicly-owned or nonprofit owned sites.
 - Subgrants do not need to be paid back.
 - Maximum subgrant - \$200,000 per site.
 - **Subgrantee must own the site.**
- Private parties/developers are NOT eligible for subgrants, only loans.

Revolving Loan Fund Grant Pro



(con't)

- Applicant determines loan structure (interest rate, loan terms).
- An applicant awarded an RLF can loan money to itself, but not subgrant to itself.
- Inter-governmental loans and subgrants are allowed within a coalition.
- Loans paid back to the RLF can be re-loaned.

Revolving Loan Fund Grant Program

(con't)



What Makes a Good Revolving Loan Fund Project?

- Growing market
- Master redevelopment plans that include brownfields
- Capacity to handle financial transaction
- Developer interest in loans



Cleanup Grant Program



Purpose: site-specific funding to pay for cleanup after assessment work is completed

- Up to \$200K per property for hazardous substances and/or petroleum contamination.
Examples:
 - Removing contaminated soil or underground tanks
 - Capping sites
 - Lead paint or asbestos removal
 - Groundwater treatment systems
 - Purchase environmental insurance

Cleanup Grant Program *(con't)*



- May apply for up to 3 properties: Separate proposals submitted for each property
- Applicant applying for both hazardous substances and petroleum cleanup grant funding at the same site must submit ONE proposal, which cannot exceed \$200,000
- Otherwise, sites can be hazardous substances or petroleum
- Nonprofits may apply!
- ***Cost share requirement of 20% - waiver a possibility***

Cleanup Grant Program (cont)



Requirements

- Applicant must have **FEE SIMPLE TITLE** to the property at time of proposal submission.
- Cleanup grants are site-specific – no site substitution is allowed.
- Written ASTM E1903-11 or equivalent Phase II site assessment report (draft is sufficient) must be completed **prior** to proposal submission.
- Community Notification must be completed **prior** to proposal submission. See page 22 for details.

Cleanup Grant Program *(con't)*



Requirements (con't)

- Community Notification includes:

Publication of **Public Notice** (Ad) & holding a **Public Meeting** on:

1. Draft Proposal; and
2. Draft Analysis of Brownfield Cleanup Alternatives (“ABCA”).

See FAQs #70 and #71

- Public Notice (Ad) must be published 2 weeks prior to proposal submission.
December 5, 2014 last date for ad publication.
- Ad must reference both Draft Proposal and Draft ABCA.
- Draft ABCA must be attached to proposal.

Cleanup Grant Program -



What makes a good cleanup grant project?

- Property ownership in place
- Site is fully characterized – know full extent of the cleanup necessary
- Cleanup plan ready/cost estimates
- Other funding in place to complete the cleanup
- Redevelopment plan ready to go and funded for the site



General ARC Grant Requirements



- Grant project period is 3 years for assessment and cleanup. RLF is 5 years.
- Grants cannot pay for “administrative” costs, especially indirect costs (see Section I.B. Uses of Grant Funds).

General ARC Grant Requirements



Required Cost Share (20% for RLF and Cleanup Grants)

- Cash, in-kind services, labor, materials or other non-federal grants (except HUD CDBG).
- Must be for eligible and allowable expenses that could be charged to the grant.
 - Examples: cleanup, oversight, community involvement, fund marketing, grant management
 - CANNOT be for site assessment, acquisition/value of the land, administrative costs, redevelopment costs, or building demolition
- Waivers are available for hardship cases.

Proposal and Selection Process



- Very Competitive Process – it's a national competition
- Proposals for Assessment, RLF, and Cleanup are all due at the same time.
- **PROPOSALS ARE DUE by December 19, 2014.**
Proposal guidelines are on EPA's website.
http://www.epa.gov/brownfields/news/index.htm#fy2014_barlf
 - Submit one original hard copy or electronically through www.grants.gov (see Section IV.B. Due Date and Mailing Instructions). Also see Appendix 2 for electronic submission.
 - Submit one copy to Tom Stolle
 - **It requires more work and forms going through grants.gov**

Proposal and Selection Process



- Separate proposals for each grant type. All proposals are reviewed independently. Limits - assessment (2), cleanup (3), RLF (1)
- Threshold criteria (pass/fail) and ranking criteria (numerical score)
- Home Regions review threshold criteria
- National panels (other Regions) review ranking criteria and determine final numeric scores
- Awards will be announced in the spring and funding awarded sometime August/early September 2015

Who Can Apply?



Type of Applicant	Assessment	RLF	Cleanup
Local or Regional Governments (e.g. municipalities, counties, schools)	•	•	•
Quasi-governmental organizations authorized by state or local government (e.g. redevelopment authorities, economic development agencies, metropolitan planning organizations)	•	•	•
State agencies and Indian Tribes	•	•	•
Nonprofit organizations			•

Proposal Overview



- Transmittal Letter – 2 pages, **no review of pages over limit**
- Narrative Proposal – Ranking Criteria (numerical score) 15 pages, **no review of pages over limit**
- **Attachments (includes responses to Threshold Criteria)**
No page limit. Only listed attachments accepted. See examples on page 25 (assessment), 27 (cleanup), 15 (RLF). Other attachments will be removed.
- Required documents that should be included in your package –
Use the checklist!
 - Assessment page 40
 - Cleanup page 41
 - RLF page 34

Transmittal Letter



- Must be signed by an official of your organization
- Tell us what kind of grant you are applying for, what kind of \$ (hazardous substances or petroleum; and how much \$ you are applying for
- Site name and location, if applicable
- Contact info – person to call for questions
- Jurisdiction covered/population
- Any cooperative partners or coalition partners
- Proposed project period
- **Don't forget to fill out the "Other Factors Checklist" (Appendix 3) and attach to the Transmittal Letter.**

Overview of ARC Threshold



Mine scarred land, Central City, Pa

Threshold Criteria – Must Pass



- Applicant Eligibility (ARC)
- Letter from the State or Tribal Environmental Authority (ARC)
- Site Eligibility and Property Ownership Eligibility (Site-specific Assessment and Cleanup Only)
- Legal Authority to Manage a Revolving Loan Fund (RLF Only)
- Description of Jurisdiction (RLF Only)
- Cleanup Authority and Oversight Structure (RLF & Cleanup Only)
- Required 20% Cost Share (RLF and Cleanup Only)
- Community Notification (Cleanup Only)
- Community Involvement (Assessment Only)

Applicant Eligibility (ARC Applicants)



- Explain how you are an eligible applicant.
- If you are a quasi-governmental organization, provide some proof/legal document.
- For nonprofits, provide evidence of your nonprofit status.

Applicant Eligibility (*con't*) (RLF/Assessment Applicants Only)



Coalition Applicants

- Three or more coalition members (Assessment Only);
Two or more coalition members (RLF only)
 - All separate legal entities
 - All eligible applicants
- Include in proposal:
 - Documentation that all members are eligible entities
 - Attach letters from coalition members (to lead coalition member) agreeing to be part of coalition
 - Make the case why a coalition makes sense (pooling resources, geographic emphasis, etc.) and how you will work together to make decisions.

Applicant Eligibility (*con't*)

(Cleanup Applicants Only)



- The applicant must be the sole owner of the property that is the subject of its cleanup grant proposal by December 19, 2014.
- The grantee must maintain such sole ownership until all of the cleanup work funded by the grant has been completed and the grant is closed out. 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.
- Affirm that you own the subject property.

Letter from State Environmental Authority (Applicants)



- Provide a *current* letter (State Acknowledgement Letter) from the state environmental authority acknowledging that you plan to conduct or oversee assessment and/or cleanup activities and to apply for grant funds.
- If you are applying for more than one type of grant, you can submit only one letter acknowledging the relevant grant activities. *However, you must attach the letter to EACH proposal.*
- Provide your state environmental authority sufficient notice.

**Contact Information for your State:*

<http://www.epa.gov/reg3hscd/bf-lr/bfgrants/statecontacts.htm>

Site and Property Ownership Eligibility



(Site-Specific Assessment and Cleanup Applicants Only)

- The Brownfields Law prohibits EPA from providing grants to applicants that are responsible for the contamination on the site.
- Liability is determined differently for hazardous substances and petroleum contaminated sites.

Site and Property Ownership Eligibility



(Site-Specific Assessment and Cleanup Applicants Only) (con't)

Hazardous Substances Sites

- EPA will conduct a site eligibility determination
- Applicant cannot be potentially liable under CERCLA §107

Petroleum Sites

- State will make the determination
- State Petroleum Eligibility Letter is needed
 - Request early
 - Different than the State Acknowledgement Letter
 - Include letter as an attachment

Site and Property Ownership Eligibility (Site-Specific Assessment and Cleanup Applicants Only) (on't)



Hazardous Substances Sites

- For site-specific assessment grants, if the applicant owns the property, they must demonstrate that they are not a liable party under CERCLA § 107. If the applicant does not own the property, CERCLA § 107 liability could still apply.
- For cleanup grants, since the applicant owns the site, CERCLA § 107 liability may apply.
- CERCLA contains very broad liability provisions.
- Liability for site owners is highly dependent on *HOW* and *WHEN* the site was acquired.
- Therefore, property ownership eligibility is dependent on *HOW* and *WHEN* the site was acquired.

Site and Property Ownership Eligibility

(Site-Specific Assessment and Cleanup Applicants Only) (Don't)



Hazardous Substances Sites

- **Ownership Eligibility - EPA attorneys make the call**
 - Owner liable unless exemption applies
 - Common liability exemptions/defenses
 - Involuntary acquisition by local or state government
 - Tax delinquency
 - Eminent domain
 - Bankruptcy
 - Bona Fide Prospective Purchaser
 - Innocent Landowner
 - Contiguous Property Owner
 - If exemption/defense applies, site eligible!



11/6/2014

Site and Property Ownership Eligibility

(Site-Specific Assessment and Cleanup Applicants Only) (Don't)



Hazardous Substances Sites

For voluntary acquisitions (after January 11, 2002), applicant must be a Bona Fide Prospective Purchaser (BFPP)

- Disposal of hazardous substances at the site occurred before the applicant acquired the site
- Not affiliated with responsible party
- Other continuing obligations (reasonable care of site)
- **All Appropriate Inquiry**
 - ASTM E1527-13 Phase I Environmental Site Assessment
 - Must have been done **PRIOR** to acquisition
 - Must be current – AAI or Phase I can't be more than 6 months old at time of purchase. Sections need to be updated.

Site and Property Ownership Eligibility

(Site-Specific Assessment and Cleanup Applicants Only) (Don't)



Petroleum Contaminated Sites

- Applicants must provide answers to the petroleum threshold questions to the appropriate state contact in sufficient time for them to make an eligibility determination.
- **State** review based on statutory requirements to determine whether the site is:
 - Relatively low risk
 - No viable responsible party (financially capable)
 - Applicant not responsible party
 - Not subject to corrective action under RCRA

**Contact Information for your State:*

<http://www.epa.gov/reg3hscd/bf-lr/bfgrants/statecontacts.htm>

Site and Property Ownership Eligibility (con't) (Cleanup Applicants Only)



- Applicants for Cleanup Grants must own the site with fee simple title at the time of proposal submission.
- Requires an ASTM E1903-11 or equivalent Phase II site assessment report (draft report is sufficient) completed prior to proposal submission in order to best describe cleanup plan and estimated costs.

Call us first to discuss site eligibility issues!

Site and Property Ownership Eligibility

(Special Categories)



Certain types of sites may also be eligible for brownfields funding if you provide additional information and get special approval from EPA (Property-Specific Determination)

- RCRA sites with a permit or order
- Active CERCLA (Superfund) removal sites (no enforcement orders)
- LUST Trust fund sites
- PCB sites
- Hazardous waste landfills
- Sites with permits or enforcement orders under other environmental laws

Site and Property Ownership Eligibility (Special Categories) *(con't)*



Property-Specific Determinations

- Talk to EPA about your special site first.
- Additional section of the funding proposal (see Appendix 1, Section 1.5 and the FAQs 29-34 for more information on property-specific determinations).
- Describe the type of site and why it should be eligible for brownfields funding.
- Discuss why other funding is not available to assess or clean up the facility.
- Explain why federal funding should be used at this facility.

Cleanup or Legal Authority and Oversight Structure (Cleanup and RLF Applicants Only)



- **Cleanup Oversight (Cleanup and RLF Applicants):**
 - An experienced environmental professional must oversee the cleanup. Describe how you will meet this requirement. Also, indicate whether you plan to enroll or require borrowers to enroll in a state response program.
- **Property(s) Access Plan (Cleanup only)**
 - Provide your plan to obtain access to adjacent or neighboring properties, if necessary.
- **Legal Opinion (RLF only)**
 - One Letter From Applicant's Counsel
 - (a) Legal authority to access & secure sites, and (b) legal authority to manage revolving loan fund (e.g., hold funds, make loans, enter into loans, and collect repayment).
 - Coalition applicants must have the broader jurisdiction, authority, and program capacity to ensure adequate program performance of coalition members, borrowers, and/or subgrantees, if warranted.

Cost Share (Cleanup and RLF Only)



- Demonstrate 20% cost share - just a plan required.
- Know the difference between **Required Cost Share**, **Voluntary Cost Share**, and **Leveraging**.

Required Cost Share = 20% of Brownfields Grant;

e.g., \$200K grant requires additional \$40K cost share.

Voluntary Cost Share = Funds/Contributions exceeding the Required Cost Share

Voluntary Cost Share is a form of Leveraging.

- Can't use federal funds for cost share (except HUD CDBG).
- The cost share may be in the form of a contribution of money, labor, material, or services from a **non-federal source**.
- Eligible and allowable expenses only
- Hardship Waivers Can Be Requested
- Cost Share Can Be Passed To Borrower (RLF Only)

Community Notification (Cleanup Applicants Only)



Cleanup Applicants Only must provide the community with notice of its intent to apply for this EPA brownfields grant and an opportunity to submit comments by:

- ✓ Placing an ad (or equivalent) in your local newspaper that covers the area targeted by your proposal at least two weeks prior to the submittal date, no later than December 5, 2014.
- ✓ Making a copy of the grant proposal and draft Analysis of Brownfields Cleanup Alternatives (“ABCA”) available for public review (e.g., town hall, library, website).

Community Notification (Cleanup Applicants Only) *(con't)*



- ✓ Indicating that you will accept comments on the draft proposal and draft ABCA, and how to submit them.
- ✓ Stating the date and time of a public meeting that you must hold prior to proposal submission.
- ✓ Applicants who are submitting more than one proposal may plan to have a single community notification ad 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.

Community Notification (Cleanup Applicants Only) *(con't)*



You must attach to your proposal

- ✓ public ad or equivalent
- ✓ draft ABCA
- ✓ public meeting notes/sign in sheet
- ✓ copies of any comments received
- ✓ your response to the public comments

Description of Jurisdiction (RLF Only)



- Provide a description of jurisdictional boundaries
 - e.g., “the city limits of The City of ABC”
- If you are applying as part of a coalition, include the jurisdictional boundaries of all coalition members.

Useful Application Preparation Tips



Viridian residential and artist work space complex, Philadelphia, Pa.

General Tips



- ✓ Read entire Guidelines (appendices too)
- ✓ Follow Guidelines directions
- ✓ Respond to ALL criteria & sub-criteria
- ✓ Responses should follow the order and outline of the Guidelines *exactly (use the numbering/section sequence outlined in the guidelines)*

General Tips, *cont.*



- ✓ Reviewers do not know your community, region, or state
 - ✓ Avoid acronyms/jargon
 - ✓ Explain all unique local & state terms
- ✓ Write a good but brief summary of your project in the Transmittal Letter
- ✓ Make your proposal unique

General Tips, *cont.*



- ✓ Coordinate proposal sections
 - ✓ Discuss concept fully in one section then reference back, when applicable
 - ✓ Avoid redundancy while assuring sections are correlated – track with each other
- ✓ If something does not apply, say why
- ✓ Every point counts!!

General Tips, *cont.*



- ✓ Make it easy for reviewer
 - ✓ Consider table format, if appropriate
 - ✓ Use formatting, if space allows bullets, indents
 - ✓ Use clear simple language
- ✓ EPA reviews copies of proposal
 - ✓ Pictures, maps & colors do not reproduce
 - ✓ Copy your final product twice, Is it legible?

General Tips, *cont.*



- ✓ Do not lose momentum as you prepare proposal
- ✓ **Detail** whenever possible; avoid excessive generalities
- ✓ Tell your community's story
- ✓ Quantify as much as possible - Use lots of numbers
- ✓ Have someone proofread your proposal
- ✓ Ensure you have incorporated FY12 changes if you are revising a past year's proposal!

General Tips, cont.



Check For Required Attachments
Attachments beyond required will
NOT be evaluated

*Transmittal
Letter
2 pages*

+

*Criteria
Responses
Narrative
15 pages*

+

*Required
Attachments*

=

Proposal

Adhere To Page Limits

Pages Beyond Limit Will Not Be Scored

Automatic Loss of Points!!

Getting Your Proposal Started



- Contact State/EPA with eligibility questions **early**.
- Contact partners for assistance in preparing and/or reviewing your proposal! Ask for letter for support from your community based partners.
- Contact State environmental authority for acknowledgment letter, and if applying for petroleum site, get the state petroleum eligibility determination letter.
- Set up public meeting and get meaningful public input (cleanup grants).

GOOD LUCK! This Could Be!!!



If at first you don't succeed, TRY AGAIN next year!!!

11/6/2014

Still Need More Information?



- Call Region 3's Brownfields Coordinator - Tom Stolle, 215-814-3129, stolle.tom@epa.gov
- EPA Headquarters Brownfields Website (Proposal Guidelines, assessment proposal guidelines checklist, FAQs)
http://www.epa.gov/brownfields/news/index.htm#fy2014_barlf
- EPA Region 3's Brownfields website (PowerPoint presentations, ABCA example, cleanup proposal guidelines checklist, state contacts, TABEZ)
<http://www.epa.gov/reg3hscd/bf-lr/bf-grants.html>

Final Questions?

