



EPA BROWNFIELDS GRANTS

Grantee Guideline to Key Tasks and Concepts

October 2014

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EPA Brownfields Internet Site: <http://www.epa.gov/swerosps/bf/>

EPA Region III Internet Site: <http://www.epa.gov/reg3hwmd/bf-lr/index.htm>

NOTE: This document was prepared by U.S. Environmental Protection Agency, Region III, as an informational tool to assist assistance agreement recipients in managing Assessment Grants and Cleanup Grants received under the U.S. Environmental Protection Agency's Brownfields assistance agreement programs. This document is not, nor is it intended to be, an exhaustive, step-by-step, guide to managing an assistance agreement. Rather, this document provides an overview of the main issues relevant to assistance agreement management, and includes numerous links to underlying laws, regulations and policies. It is the responsibility of the assistant agreement recipient to abide by the terms and conditions of the assistance agreement and all other applicable laws and regulations.

ASSESSMENT GRANTS

ASSESSMENT GRANT

I. Negotiating the Cooperative Agreement

A. Post-Competition Process for Negotiating a Cooperative Agreement

Forms available at: <http://www.epa.gov/region3/grants/index.htm>, www.grants.gov,
<http://www.epa.gov/ogd/forms/forms.htm>

The grantee must:

1. Contact their State Intergovernmental Review Office and submit a completed intergovernmental review to EPA. Note that intergovernmental review must be complete prior to award.

Submit the following:

2. Transmittal Letter
3. Application for Federal Assistance (SF 424);
4. Budget Information – Non-construction programs (SF424A);
5. Budget Detail – EPA Regional Form (contact Project Officer for sample);
6. Assurances – Non-construction programs (SF424B); and
6. Certification Regarding Lobbying – EPA Form 6600-06;
7. Disclosure of Lobbying Activities– Standard Form LLL;
8. Pre-award Compliance Review Report - EPA Form 4700-4;
9. Key Contacts Form – EPA Form 5700-54;
10. Work Plan (as described in section B below; templates: <http://www.epa.gov/reg3hwmd/bf-lr/applicationforms.htm>)
11. Any additional certification forms required by EPA Region III such as:
 - i. Certification of an adequate accounting system;
 - ii. Memorandum of Agreement for coalition grants (prior to expenditure of funds).

B. Terms and Conditions and Negotiating a Work Plan

1. The grantee must prepare a formal work plan that may include, but is not limited to, the following deliverables:
 - i. A schedule outlining milestones and items to be delivered to EPA (e.g., quarterly reports, quality assurance project plans, and site-specific sampling and analysis plans);
 - ii. A financial plan or budget (refer to your proposal submission); and
 - iii. An approach for satisfying specific output and outcome commitments made in the work plan.

C. Awarding a Cooperative Agreement

The grantee must:

1. Finalize an approved work plan, which contains consideration for environmental results;
2. Agree to EPA's terms and conditions; and
3. Sign the cooperative agreement (grantee's organization will be referred to as a "cooperative agreement recipient," or "grantee").

The grantee must understand that:

4. The terms and conditions and work plan are legally binding documents that must be followed in administering the assessment grant; and
5. EPA will be available to help with grant administration.

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II. Roles and Responsibilities

A. General

Grantees must have an understanding of:

1. Cooperative agreement terms and conditions;
2. Applicable laws and regulations;
3. Financial management responsibilities; and
4. Reporting and record keeping requirements.

B. Specific Grantee Responsibilities

Grantee's performance of assessment grant responsibilities include:

1. Comply with terms and conditions of the cooperative agreement made with EPA;
2. Maintain financial records;
3. Submit quarterly progress reports and other required paperwork;
4. Adhere to eligible cost requirements;
5. Comply with requirements of CERCLA § 104(k) and applicable federal and state laws when conducting assessment activities;
6. Comply with competitive procurement requirements of 40 C.F.R. § 31.36 (State and Local Governments); for a copy of 40 CFR 31 click link, scroll down to "40 Protection of Environment", select latest version link under Date column, select "1-49" under "Parts" column, then click on Part 31 : <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>
7. Ensure that contractors comply with cooperative agreement terms and conditions; and
8. Ensure that spending of EPA funding is limited to the amount provided in the assessment grant (grantees can supplement EPA grant funding with money from other sources).
9. Ensure that the final report adequately addresses the achievement of agreed-upon outputs/outcomes. EPA order 5700.7 can be viewed at <http://www.epa.gov/ogd/grants/award/5700.7.pdf> .
 - i. If a grantee fails to meet planned accomplishments, then the report should provide a satisfactory explanation of the failure.

C. Specific EPA Project Officer Roles and Responsibilities

EPA Project Officer (PO) assistance in an assessment grant may include:

1. Program monitoring;
2. Assisting in the review of assessment phases;
3. Oversight on operational matters;
4. Reviewing and approving quality assurance project plans/sampling and analysis plans;
5. Providing technical assistance on site eligibility (i.e., what sites qualify for brownfields funding);
6. Providing technical assistance on subgrantee eligibility;
7. Approval of the substantive terms of assessment subgrants;
8. Approval of the substantive terms included in professional services contracts;
9. Analysis of financial and environmental status reports; and
10. Monitoring the grantee's fulfillment of all reporting, record keeping, and other program requirements.
11. If the final report does not adequately address the achievement of outputs/outcomes, then the PO will seek further explanation from the grantee and require appropriate action.

If a grantee obtains assistance from another organization (public, private, or nonprofit) to complete a responsibility of an assessment grant then:

- EPA reserves the right to review the written agreement(s) to ensure that the agreement(s) is for eligible and allowable costs.

III. Eligible Applicants, Sites, and Uses of Funds

TIP: Proposal Guidelines for Brownfields Assessment, RLF, and Cleanup Grants contain useful information and guidance throughout the life of the grant. For an electronic copy, click on the EPA Brownfields Internet Site on the Contents page of this document, then on the Apply for Grants link to view an electronic version of the latest grant guidelines. These are not just guidelines for writing a proposal!

A. Eligible Entities

1. To be eligible for funding under the Brownfields Law, the applicant must be an “eligible entity” as defined in CERCLA § 104(k)(1).

B. Eligible Sites

Sites Eligible for Brownfields Funding

Sites that meet the general definition of a brownfield site provided in CERCLA § 101(39)(A) and not excluded under CERCLA § 101(39)(B). These sites may include:

1. Sites where there is a presence or potential presence of contamination by a hazardous substance as defined in CERCLA § 101(14) or a pollutant or contaminant as defined in CERCLA § 101(33);
2. Sites contaminated by petroleum or a petroleum product require additional analysis and discussion with the PO;
3. Sites contaminated by controlled substances; and
4. Mine-scarred lands including drainage and affected associated waters.
5. Grantee should submit the appropriate Property Approval Questionnaire (Hazardous and/or Petroleum) and obtain EPA PO approval prior to spending site-specific funds. Templates can be found at:
<http://www.epa.gov/reg3hwmd/bf-lr/granteereporting.htm>

Sites Requiring a Property-Specific Determination:

6. Facilities subject to planned or ongoing CERCLA removal actions;
7. Facilities that are subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees, or to which a permit has been issued by the United States government or an authorized state under the Solid Waste Disposal Act, § 311 of the Federal Water Pollution Control Act (FWPCA), the **Toxic Substances Control Act (TSCA)**, or the Safe Drinking Water Act (SDWA);
8. Facilities subject to corrective action orders under **Resource Conservation and Recovery Act (RCRA) § 3004(u)** or § 3008(h) and to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;
9. Facilities that are 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;
10. Facilities where there has been a release of polychlorinated biphenyls (PCBs) and are subject to remediation under TSCA; and
11. Sites (or portions of properties) that have received specific assistance for response activities under Subtitle I from the RCRA **Leaking Underground Storage Tank (LUST) Trust Fund**.

C. Ineligible Sites

1. Sites listed, or proposed for listing, on the **National Priorities List (NPL)**;
2. Sites subject to a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree issued or entered into by parties under CERCLA; and
3. Sites subject to the jurisdiction, custody, or control of the US government, except for land held in trust by the US for an Indian tribe.

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D. Property-Specific Funding Determinations

To make a property-specific funding determination, EPA must have the following information:

1. Basic site information including:
 - i. Whether or not the site meets the general definition of a “brownfield site” as defined in CERCLA § 101(39)(A);
 - ii. The identity of the owner; and
 - iii. The date of acquisition.
2. The specific circumstance that requires this request for a property-specific determination;
3. A short explanation of why the site falls within the identified circumstances requiring the property-specific determination;
4. An explanation of how providing assessment grant funding will meet the criteria for making a property specific funding determination;
5. The degree to which other funding is not available; and
6. An explanation of whether or not the applicant is responsible for the contamination at the site.

The criteria for making a property-specific funding determination include:

7. Whether funding will protect human health and the environment; AND either:
 - i. Whether funding will promote economic development; or
 - ii. Whether funding will promote creation of, preservation of, or addition to parks, greenways undeveloped property, other recreational property, or other property for nonprofit purposes.

E. Petroleum Contaminated Sites

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

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; and
4. The site is not subject a corrective action order under § 9003(h) of the Solid Waste Disposal Act.

F. Eligible and Ineligible Activities

Grantees may use assessment funds for the following activities:

1. Inventory activities (e.g., surveying sites, monitoring community health, creating lists or databases of brownfield properties);
2. Assessment activities such as:
 - i. Phase I – a screening or “all appropriate inquiry” (AAI) including a background and historical investigation and a preliminary site investigation;
 - ii. Phase II – a full environmental assessment, including sampling activities to identify the types and concentrations of contaminants and the areas of contamination to be cleaned;
 - iii. Phase III – establishment of cleanup options and cost estimates based on future uses and redevelopment plans.
3. Characterization activities (e.g., determining the nature and extent of contamination that an environmental site assessment has flagged);
4. Planning activities (e.g., conducting cleanup and redevelopment planning and community involvement planning, including documentation of the Analysis of Brownfields Cleanup Alternatives (ABCA)); or
5. Costs associated with meeting public participation and interagency coordination requirements.
6. Area-wide planning activities or development of an area-wide plan.
7. Consult EPA for issues involving historic properties or threatened or endangered species prior to expenditure of funds.

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Assessment grant funds **cannot** be used for the following activities:

8. Cleanup activities;
9. Support of lobbying efforts; or
10. Costs related to purchasing insurance coverage for these ineligible activities.

G. Eligible, Allowable and Ineligible Costs

Grantees may use assessment funds for:

1. Costs for investigation and identification of the extent of the contamination;
2. Costs for design (not performance!) of a response action (phase III site assessment);
3. Costs for monitoring of a natural resource (e.g., soil, groundwater) for contamination;
4. Costs that are allowable under **Office of Management and Budget (OMB)** Circular are found in 2 CFR Part 225; to download a copy, click: <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>
5. Costs associated with meeting community notification, public participation, and programmatic management requirements;
6. Costs associated with determining whether assessment activities at a particular site are authorized by CERCLA § 104(k);
7. Costs for ensuring that an assessment complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k);
8. Expenses for site assessment activities;
9. Costs for fees associated with conducting site assessments under State Voluntary Cleanup Programs (VCPs) or other state cleanup programs;
10. Costs incurred for the purchase of insurance if the purchase is necessary to carry out assessment (for example, workman's compensation insurance);
11. Costs for the purchase of environmental insurance;
12. Costs incurred for complying with procurement provisions of 40 C.F.R. Part 31 (only if the procurement contract is for services or products that are direct costs of activities specified in statutory exceptions to the administrative cost prohibition provided in CERCLA § 104(k)(4)(B)(ii) or is an eligible programmatic cost);
13. Costs for performance and programmatic financial reporting required under 40 C.F.R. §§ 31.40-31.41 are eligible programmatic costs;
14. Costs associated with monitoring the health of populations exposed to hazardous substances from a brownfield site. In addition, costs associated with monitoring and enforcing institutional controls used to prevent human exposure to hazardous substances at a brownfield site are considered eligible costs (cannot exceed 10% of the grant funds and are eligible to only *local government grantees*); and
15. Expenses for travel, training, equipment (typically not allowed, verify approval with EPA), supplies (paper, ink, toner etc.), reference materials, contractual support, and "other" category (printing, reproduction, postage/ mailing, telephone), if those costs are reasonable and can be allocated to tasks specified in an approved scope of work for carrying out the activities specified in statutory exceptions to the administrative cost prohibition.

Grantees **may not** use assessment funds for the following costs:

16. Penalties or fines;
17. Federal cost-share requirements (absent statutory authorization);
18. Administrative costs;
19. Response costs at a brownfield site for which the grantee is potentially liable under CERCLA § 107;
20. Costs related to complying with federal laws other than those applicable to the assessment;
or
21. Costs related to purchasing insurance coverage for these ineligible costs.

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The administrative cost prohibition includes:

22. Costs associated with compliance with most provisions of 40 C.F.R. Part 31. Such compliance costs include, but are not limited to, costs for:
 - i. Cost for salaries, benefits, contractual costs, supplies, and data processing charges;
 - ii. Record retention;
 - iii. Maintaining and operating financial management systems;
 - iv. Accounting tasks;
 - v. Revising budgets, scopes of work, program plans; and
 - vi. Closing out a grant award.
23. All indirect costs under OMB Circulars found in 2 CFR Part 225 and Subpart 31.2 of the Federal Acquisition Regulation;
24. Cost for making and managing subgrants; and
25. Proposal costs, including associated consultant fees.

H. CERCLA Liability and Protections

Grantees that *own or owned* the site(s) they intend to assess must establish one of the following CERCLA liability protections:

1. **Bona fide prospective purchaser protection (BFPP);**
2. **Contiguous property owner protection (CPO);**
3. **Innocent landowner protection (ILO);** or
4. Other CERCLA liability exemption/defense.

To obtain liability protection as a BFPP, a CPO, or an ILO, the party must:

5. Satisfy applicable threshold criteria; and
6. Satisfy applicable continuing obligations.
7. If the grantee does not own the site, the grantee must not otherwise be liable under CERCLA § 107, for example, as an operator.

Further information which describes criteria landowners must meet can be found at:

<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-elem-ref.pdf>

IV. Assessment Grant Financial Management

A. Financial Oversight and Management

EPA POs provide information to grantees to assist them with the following:

1. Ensuring that assessment grant efforts comply with cooperative agreement terms and conditions; and
2. Assist with reimbursement of funds towards eligible activities and allowable costs.

The grantee is responsible for managing grant funds to conform with:

3. The cooperative agreement terms and conditions;
4. Applicable laws and regulations; and
5. Prudent financial management practices and competitive procurement.

The following individual(s) or organization(s) may be hired to provide financial management services, if the grantee (or in-house staff) is not qualified:

6. A private for-profit entity;
7. A different unit of government; or
8. A qualified government employee.

B. Financial Administration Standards

Each grantee must ensure that its financial management system meets the standards provided in 40 C.F.R. § 31.20. The standards require the following:

1. **Financial Reporting:** Accurate, current, and complete disclosure of the results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant.
2. **Accounting Records:** Grantees must maintain records that adequately identify the source and application of funds provided for financially assisted activities.
3. **Internal Controls:** Effective control and accountability must be maintained for all grant cash, real and personal property, and other assets; grantees must adequately safeguard all such property and must ensure that it is used solely for authorized purposes.
4. **Budget Controls:** Actual expenditures must be compared with budgeted amounts for each grant. Financial information must be related to performance or productivity data. Grantees are permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by EPA, certain types of post-award changes in budgets require the prior written approval of the EPA PO (see 40 C.F.R. § 31.30(c) for the complete list).
5. **Allowable Costs:** In determining what costs are reasonable, allowable, and allocable, the grantee must follow the cooperative agreement terms and conditions including OMB Circular found in 2 CFR Part 225.
6. **Source Documentation:** Accounting records must be supported by source documentation (for example, cancelled checks, paid bills, payrolls).
7. **Cash Management:** Electronic transfer of funds is required for reimbursement from the U.S. Treasury. Advance payment procedures are not used in EPA Region III.

C. Create and Manage Budget

The grantee must:

1. Develop an approach for managing the project budget:
 - i. Include a detailed description and narrative of each performance or productivity task
 - ii. Create and maintain an adequate accounting record and source documents to substantiate the amount of grant funds expended for eligible costs; and
2. Report financial expenditures related to project activities.

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D. Payment Schedule

1. Grantees shall be paid on a reimbursement system of payment (see 40 C.F.R. § 31.12).

E. Funds Draw Down and Program Income

1. Grantees draw down grant funds when there is a need to pay for an eligible activity or cost. EPA Region III does not allow advance payments.
2. Procedures for funds draw down, including recipient's manual for electronic funds transfer, can be located at: <http://www.epa.gov/ocfo/finservices/payinfo.htm>
3. Interest earned on program income is considered additional program income.

Program income includes, but is not limited to fees charged for:

4. Conducting assessment;
5. Site characterizations;
6. Cleanup planning; or
7. Other activities when the costs for the activities are charged to this agreement.

F. Identifying Sources of Funds

The assessment grant offers financing for the assessment phase of a brownfields redevelopment site, but stakeholders can use other sources of federal and non-federal funding to cover costs that are ineligible under the assessment grant.

Other sources of funds include financial assistance from:

1. Federal agencies;
2. States;
3. Political subdivisions;
4. Indian tribes; and
5. Private parties.

Also, consider the **Targeted Brownfields Assessments (TBA)** program. Under this initiative, EPA conducts environmental assessments, or provides other technical assistance as required, at no cost to the recipient. Requests can be made any time of year and approval is subject to program requirements and availability of funds.

6. For Eligibility/Description of program and an Application checklist, see: <http://www.epa.gov/reg3hwmd/bf-lr/technicalassistance.html>

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V. Site Assessment Responsibilities

Certain aspects of this checklist may be adjusted based on site-specific situations.

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 threatened or endangered species to ensure that the requirements of Section 106 of **National Historic Preservation Act (NHPA)** or Section 7(a) of the **Endangered Species Act (ESA)** are met.

A. Conducting an Initial Site Assessment

1. Ensure that Phase I site characterizations and assessments are performed in accordance with the All Appropriate Inquiry Final Rule (40 C.F.R. § 312) or ASTM standard E1527-13, *Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process*.
2. The **Environmental Professional (EP)** must conduct the following inquiries:
 - i. Interviews with past and present owners, operators, and occupants;
 - ii. Reviews of historical sources of information;
 - iii. Visual inspections of the facility and of adjoining properties;
 - iv. Consideration of commonly known or reasonably ascertainable information about the properties;
 - v. Consideration of the degree of obviousness of the presence or likely presence of contamination at the property; and
 - vi. Consideration of any information provided to the EP as a result of the additional inquiries conducted by the grantee which are defined below.
3. The grantee must conduct the following inquiries and may provide the information associated with such inquiries to the EP:
 - i. If not otherwise obtained by the EP, environmental cleanup liens against the property that are filed or recorded under federal, tribal, state, or local law;
 - ii. Specialized knowledge or experience of the grantee;
 - iii. The relationship of the purchase price to the fair market value of the property, if the property was not contaminated; and
 - iv. If not otherwise obtained by the EP, commonly known or reasonably ascertainable information about the subject property.

B. Conducting a Phase II Site Assessment

1. Develop a **Quality Assurance Project Plan (QAPP)** for EPA approval prior to environmental sample collection:
 - i. Follow a systematic planning approach such as the data quality objectives (DQOs) process.
2. Conduct a sampling and analysis investigation in accordance with the QAPP (and any other specific regional requirement such as a **Sampling and Analysis Plan (SAP)**).
3. Analyze collected samples or send samples to a qualified laboratory for analysis.
4. Assess data usability.
5. QAPP and SAP templates can be found at:
<http://www.epa.gov/reg3hwmd/bf-lr/granteereporting.htm>
6. Competency of Data - This policy is applicable to all new grant awards over \$200,000 awarded after October 1, 2013 that generate or use environmental data. Under the new policy, basically all of our BF grants that generate or use environmental data will need to demonstrate their competency (qualifications) prior to performing environmental data collection activities. [Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements \(PDF\)](#). See also:
http://www.epa.gov/fem/lab_comp.htm

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C. Cleanup Planning Activities

1. Based on the results of the Phase I and Phase II (or other comprehensive environmental) site assessments and community input, the grantee may analyze for brownfield cleanup alternatives.

D. Area-Wide Planning Activities

1. Grant funds may be used for conducting area-wide planning activities within a specific brownfields-impacted area that leads to the development of an area-wide plan. Activities include:
 - i. Planning to identify potential future uses necessary to inform assessment/cleanup decisions;
 - ii. Create area-wide strategies to ensure successful assessment, cleanup, and reuse;
 - iii. Develop strategies for reuse of existing infrastructure;
 - iv. Determining strategy and resources required to implement the area-wide plan.

E. Completing and Documenting the Environmental Site Assessment

1. The results of the EP's Phase I site assessment inquiry must be documented in a written report that, at a minimum, includes the following:
 - i. An opinion as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances, pollutants and contaminants, petroleum and petroleum products, and controlled substances;
 - ii. An identification of data gaps in the information gathered that affect the EP's ability to identify conditions;
 - Comments regarding the significance of such data gaps;
 - The qualifications of the EP;
 - iii. A written statement (as defined in 40 C.F.R. § 312.21) declaring that the EP meets the definition of an environmental professional at 40 C.F.R. § 312.10 and that the all appropriate inquiries were performed in accordance with the standards and practices set forth in 40 C.F.R. Part 312; and
 - iv. The EP's signature.
2. At the completion of a Phase II or other comprehensive environmental site assessment, the grantee must prepare a report on the assessment operation and actions taken. The report should contain the following items:
 - i. Document site assessment actions taken and any modifications made to the SAP or QAPP;
 - ii. Document the type, concentration, and location of contamination documented at the site;
 - iii. Document any future actions that will be taken at the site including cleanup actions and/or no action;
 - iv. Document the resources committed;
 - v. Document any problems encountered; and
 - vi. Submit report to all appropriate contacts.

F. Additional Sources of Funding

1. Identify sources of capital for the cleanup.
2. Contact the state voluntary cleanup program to discuss the benefits gained by enrolling in a State **Voluntary Cleanup Program (VCP)**.
3. EPA provides assistance to grantees in obtaining funding to the extent allowable in EPA's competition policy and federal ethics rules.

VI. Reporting and Record Keeping Responsibilities

A. Grantees shall perform the following reporting tasks:

1. Quarterly Reports of accomplishments and activities must be submitted within 30 days of the end of each federal fiscal quarter (due **January 30 (Quarter 1), April 30 (Quarter 2), July 30 (Quarter 3) and October 30 (Quarter 4)**). Quarterly reports must include items listed in 40 C.F.R. § 31.40. Examples include:
 - i. Documentation of progress at meeting the performance outputs/outcomes, project narrative, project time line and an explanation for any inability in meeting established outputs/outcomes;
 - ii. Clearly identify in quarterly reports the activities undertaken with EPA funds. Include firm leveraging or voluntary cost share achievements;
 - iii. Explain how EPA-funded activities relate to the objectives and milestones agreed upon in the work plan;
 - iv. An update on project milestones;
 - v. New or updated **Property Profile Form(s)** on an as needed basis.
 - Use the ACRES program: <http://www.epa.gov/brownfields/pubs/acres/index.htm> to input data.
 - vi. A budget recap summary page with the following headings: Current Approved Budget; Costs Incurred this Quarter; Costs Incurred to Date; and Total Remaining Funds; and
 - vii. For coalition grants, quarterly reports must specify costs incurred at petroleum and hazardous brownfields sites in *separate* budgets.
 - viii. Schedule and status of properties assessed.
 - ix. Firm commitments of leveraged funding must be tracked in the quarterly progress reports as well as ACRES leveraged funds.
 - x. Quarterly report template can be found at: <http://www.epa.gov/reg3hwmd/bf-lr/granteereporting.htm>
2. Federal Financial Report (FFR) (SF 425)
 - i. Reports are **required even if no drawdowns are made** during the reporting period.
 - ii. Annual interim FSRs are due within 90 days following the end of the quarter of the anniversary of the budget period start date (refer to your cooperative agreement). Please email the completed report to EPA's Las Vegas Finance Center at lvfc-grants@epa.gov . If you are unable to email the form, please either fax the report to 702-798-2423 or mail the report to 4220 S. Maryland Pkwy, Bldg C, Rm 503, Las Vegas, NV 89119. For more information contact: Peter Puglisi, LVFC, at 702-798-2426 or puglisi.peter@epa.gov .
 - iii. See Close-Out procedures for instructions on submittal of Final FFR.
3. Disadvantaged Business Enterprise DBE (formerly MBE/WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreement report (EPA Form 5700-52A) - It is EPA's policy (40 CFR Sec. 31.36(e) and 40 CFR Sec. 33) that recipients of EPA financial assistance through grants and cooperative agreements award a "fair share" of subagreements to small, minority and women-owned businesses. Since each is a separate entity, the objective is to assure that each of these business entities is given the opportunity to participate in subagreements awards under EPA financial assistance agreements. This policy applies to all subagreements for equipment, supplies, construction and services under all EPA grants and cooperative agreements. The DBE Program is an outreach, education, and goaling program designed to increase the participation of DBEs in procurements funded by EPA assistance agreements. For more information see: <http://www.epa.gov/osbp/grants.htm>.
 - i. Reports are **required even if no procurements are made** during the reporting period.
 - ii. This report is required on a semi-annual basis. The report is due within 30 days of the end of the appropriate Federal fiscal quarter (due **April 30 (for period Oct 1 to Mar 31) and October 30 (for period Apr 1 to Sep 30)**).

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- iii. Please submit reports to Cynthia Burrows, Diversity/EEO Manager (3PM00), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. Phone: 215-814-5108, email: burrows.cynthia@epa.gov.
4. **Single Audit Report.** OMB Circular A-133, which implements the Single Audit Act Amendments of 1966, requires recipients that expend \$500,000 or more in total Federal funds from all Federal awards in a fiscal year to arrange for an independent auditor to perform a single audit. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. The recipient **MUST** submit the SF-SAC and a Single Audit Report Package using the Federal Audit Clearinghouse's Internet Data Entry System. For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>
5. **AAI Phase I Certification.** For each Phase I Environmental Site Assessment, or AAI, conducted using EPA federal funds, the grantee must complete, sign, date, and submit the following checklist with each AAI/Phase I report submitted to EPA: <http://www.epa.gov/brownfields/aai/AAI-Reporting-fact-sheet-and-checklist-062111-Final.pdf>
6. Assessment reports (with information on assessment dates) upon completion;
7. Electronic copies of forms can be found at <http://www.epa.gov/region03/grants/repforms.htm> and <http://www.epa.gov/ocfo/finservices/payinfo.htm>

B. Grantees shall perform the following record maintenance tasks:

1. Maintain adequate accounting records and source documentation to substantiate the amount and percentage of program income expended for eligible programmatic costs;
2. Comply with Office of Management and Budget (OMB) Circular found in 2 CFR Part 225 when charging costs;
3. Maintain records for at least 3 years after submission of the final expenditure report; and
4. Know that periodic audits of EPA programs are conducted by an outside auditor in accordance with Government Accountability Office (GAO) accounting standards or generally accepted government auditing standards.

C. Grantee must ensure performance of work plan objectives:

1. The final report shall adequately address the achievement of agreed-upon outputs/outcomes, or further explanation from the grantee and/or appropriate action may be required.
2. If the grantee fails to meet planned accomplishments, then the report should provide a satisfactory explanation of the failure.
3. Under the Government Performance and Results Act, EPA may contact the grantee well after the grant period of performance to collect information on additional resources leveraged as a result 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.

VII. Closeout Procedures

A. Closeout Process and Responsibilities

1. Grantee completed all administrative actions and work required under the cooperative agreement.
2. The grantee received final payment of funds from EPA.
3. EPA shall deobligate all funds unused by the grantee.

Deobligation Schedule

The grantee shall complete the following actions:

4. Provide evidence, through quarterly reports, that significant progress was made towards completing work under the cooperative agreement;
5. Request final payment of award funds from EPA within 90 days of the cooperative agreement end date; and
6. Disbursement of any accrued program income before requesting final payment from EPA.

Reporting

Grantee reporting obligations must be completed **within 90 days** after the expiration or termination of the grant include, but are not limited to:

7. Final performance or progress reports (See also II.B.9 (pg. 3) Outputs and Outcomes);
 - i. The final technical/performance report must be submitted to the EPA Project Officer listed on the Assistance Agreement in accordance with the terms and conditions and/or approved work plan. For content of the final report refer to 40 CFR 31.40(b)(2), whichever is applicable, and the terms and conditions of the grant. Include firm leveraging or voluntary cost share achievements. For questions regarding content of the final report, please contact the EPA Project Officer.
8. Final Federal Financial Report (FFR) (SF 425).
 - i. The final FFR and payment request are due no later than 90 days after the end of the project/budget period. Please email the completed report to EPA's Las Vegas Finance Center at lvfc-grants@epa.gov. If you are unable to email the form, please either fax the report to 702-798-2423 or mail the report to 4220 S. Maryland Pkwy, Bldg C, Rm 503, Las Vegas, NV 89119. For more information contact: Peter Puglisi, LVFC, at 702-798-2426 or puglisi.peter@epa.gov.
9. Final DBE (formerly MBE/WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreement report (EPA Form 5700-52A)
 - i. A final Minority/Women's Business Enterprise Utilization Report (MBE/WBE) (EPA Form 5700-52A) must be completed which identifies funds expended for supplies, equipment, contractual services or construction during the life of the assistance agreement. The final report should include only those expenditures that were not previously reported, as well as a negative report, if no funds were expended during the time period of the last report. The completed and signed report must be submitted to Attn: Cynthia Burrows, Diversity/EEO Manager (3PM00), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. Phone: 215-814-5108, email: burrows.cynthia@epa.gov.
10. Lobby and Litigation Certificate (EPA Form 5700-53) A Lobbying & Litigation Certification (EPA Form 5700-53) is required at the end of the grant period to certify that no federal assistance funds were used to engage in lobbying the Federal Government or in litigation against the United States unless authorized under existing law. (Reference: EPA's annual appropriations acts for fiscal year 2002 and fiscal year 2003, PL 106-74, §426 and PL 106-377, §424 respectively). This form must be submitted to: **US EPA, Grants and Audit Management Branch (3PM70), 1650 Arch Street, Philadelphia, PA 19103-2029**. For more information, please contact your **EPA Grants Specialist** listed on the Assistance Agreement.
11. Final request for payment to Las Vegas office (Form 190-F-04-001)
 - i. See #8 above;

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12. Assessment reports (with information on assessment dates);
13. Institutional controls, where appropriate;
14. Invention disclosure (as applicable)
 - i. If any inventions were developed under this project, an Invention Disclosure Report containing: Name of Invention, Market Value and Ownership Rights must be submitted to the EPA Project Officer listed on the Assistance Agreement.
<http://www.epa.gov/glnpo/fund/applicationpac/Management/EPAForm3340-4.pdf> ;
15. Property profile forms (ACRES); and
16. A federally owned property inventory report (in accordance with 40 C.F.R. § 31.32(f) or 40 C.F.R. § 30.34(f)).
 - i. If there is: a) any equipment, acquired under the grant, with a current per unit fair market value in excess of \$5,000 that you no longer need for this project/program* or b) a residual aggregate fair market value of unused supplies acquired under the grant exceeding \$5,000, request disposition instructions from the EPA Project Officer listed on the Assistance Agreement. *For non-Superfund grants, States may dispose of equipment in accordance with State laws and procedures.
 - ii. If your inventory contains property where title remains vested by law in the Federal Government (not purchased with grant funds), submit an inventory containing a description of the property, decal number and current condition to the EPA Project Officer listed on the Assistance Agreement.
17. Electronic copies of forms can be found at <http://www.epa.gov/region03/grants/repforms.htm> and <http://www.epa.gov/ocfo/finservices/payinfo.htm>

Closeout Interview/Report

18. The final report shall adequately address the achievement of agreed-upon outputs/outcomes, or further explanation from the grantee and/or appropriate action may be required.
19. If the grantee fails to meet planned accomplishments, then the report should provide a satisfactory explanation of the failure.
20. EPA reports the information through the National Program Managers' reporting processes.

Record Keeping

Grantees must follow post-closeout record maintenance responsibilities:

21. Maintenance of records for at least 3 years after completion of the assessment agreement; and
22. Continued records maintenance if a claim, audit, or negotiation related to the records is unresolved at the end of the 3-year retention period.

Unused Funds

Grantee must ensure proper handling of unused funds:

23. Grantee must comply with 40 C.F.R. § 3150(d)(2) and return unused funds, unless EPA authorizes the grantee to retain the funds for use on other grants.

Notice of Closeout

24. EPA POs will follow regional procedures for notifying the grants management office (GMO) of its intent to close out the cooperative agreement and submit an official grant file for electronic filing.

B. Non-Compliance, Suspension, and Termination

1. In a case of termination for non-compliance, dispute procedures are described in 40 C.F.R. § 31.70.

EPA may, under 40 C.F.R. § 31.43(a)(1)-(3), remedy noncompliance cooperative agreement terms and conditions by any or all of the following:

2. Temporarily withholding payments;
3. Disallowing all or part of cost activities; and/or

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4. Initiating a whole or partial suspension or termination.

EPA may also, under CERCLA § 104(k)(7)(C) and the cooperative agreement terms and conditions, take the following actions:

5. Terminating the grant;
6. Requiring the grantee to repay funds received; and
7. Pursuing other legal remedies available to EPA.

EPA or the grantee may agree to terminate the grant for convenience. The grantee may also unilaterally terminate the grant for convenience.

CLEANUP GRANT

CLEANUP GRANTS

CLEANUP GRANT

I. Negotiating the Cooperative Agreement

A. Post-Competition Process for Negotiating a Cooperative Agreement

Forms available at: <http://www.epa.gov/region3/grants/index.htm>, www.grants.gov, <http://www.epa.gov/ogd/forms/forms.htm>

The grantee must:

1. Contact their State Intergovernmental Review Office and submit a completed intergovernmental review to EPA. Note that intergovernmental review must be complete prior to award.

Submit the following:

2. Transmittal Letter
3. Application for Federal Assistance (SF 424);
4. Budget Information – Non-construction programs (SF424A);
5. Budget Detail – EPA Regional Form (contact Project Officer for sample);
6. Assurances – Non-construction programs (SF424B); and
6. Certification Regarding Lobbying – EPA Form 6600-06;
7. Disclosure of Lobbying Activities– Standard Form LLL;
8. Pre-award Compliance Review Report - EPA Form 4700-4;
9. Key Contacts Form – EPA Form 5700-54;
10. Work Plan (as described in section B below; templates: <http://www.epa.gov/reg3hwmd/bf-lr/applicationforms.htm>)
11. Any additional certification forms required by EPA Region III such as:
 - i. Certification of an adequate accounting system;

B. Terms and Conditions and Negotiating a Work Plan

1. The grantee must prepare a formal work plan that may include, but is not limited to, the following deliverables:
 - i. A schedule outlining milestones for carrying out the site cleanup;
 - ii. A schedule outlining due dates of items to be delivered to EPA (e.g., quarterly reports, site-specific Community Involvement Plans, and site-specific quality assurance project plans/sampling plans);
 - iii. A financial plan or budget (refer to your proposal submission); and
 - iv. Information on community relations and involvement, health and safety, and quality assurance plans; and
 - v. Information on site definition (e.g., boundaries, map, description).

C. Awarding a Cooperative Agreement

The grantee must:

1. Finalize an approved work plan, which contains consideration for environmental results;
2. Agree to EPA's terms and conditions; and
3. Sign the cooperative agreement (grantee's organization will be referred to as a "cooperative agreement recipient," or "grantee").

The grantee must understand that:

4. The terms and conditions and work plan are legally binding documents that must be followed in administering the cleanup grant; and
5. EPA will be available to help with grant administration.

CLEANUP GRANT

II. Roles and Responsibilities

A. General

Grantees must have an understanding of:

1. Cooperative agreement terms and conditions;
2. Applicable laws and regulations;
3. Financial management responsibilities; and
4. Reporting and record keeping requirements.

B. Specific Grantee Responsibilities

Grantee's performance of cleanup grant responsibilities include:

1. Ensure that all cleanups conducted with grant monies comply with all applicable federal and state laws and are protective of human health and the environment;
2. Use the services of one or more qualified environmental professionals;
3. Comply with terms and conditions of the cooperative agreement made with EPA;
4. Ensure that contractors comply with cooperative agreement terms and conditions;
5. Submit quarterly progress reports and other required paperwork;
6. Adhere to eligible cost requirements;
7. Establish methods of payment and disbursement;
8. Comply with competitive procurement requirements as applicable:
 - i. **State and Local Governments: 40 C.F.R. § 31.36**; for a copy of 40 CFR 31 click below:
 - ii. **Nonprofit Organizations/Hospitals/Institutions of Higher Education: 40 C.F.R. § 30**; for a copy of 40 CFR 30 click below:
 - iii. For a copy of 40 CFR 30 or 31 click link, scroll down to "40 Protection of Environment", select latest version link under Date column, select "1-49" under "Parts" column, then click on **Part 30 or 31 as applicable above** : <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>
9. Maintain financial records;
10. Ensure that spending of EPA funding is limited to the amount provided in the cooperative agreement (grantees can supplement EPA grant funding with money from other sources).
11. Meet the 20% cost share requirement by incurring and paying for eligible and allowable costs in the match amount specified in the grant agreement;
12. Develop site-specific community relations and public involvement plan;
13. Ensure that continuing obligations for CERCLA liability defenses (e.g., BFPP) are satisfied, if applicable;
14. Complete, and update as necessary, a Property Profile Form (PPF) to report initiation and completion of cleanup activities. The grantee must submit an updated PPF reflecting such events within 30 days after the end of the federal fiscal quarter in which the event occurred.
15. Comply with the Davis-Bacon Act. Information can be found at: <http://www.hud.gov/offices/adm/hudclips/forms/files/4813-LR.pdf> ;
Ensure that applicable grant-funded construction contracts, solicitations, and sub-agreements include clauses or terms of complying with the Davis-bacon Act. Grantee must receive and review certified weekly payroll records per Department of labor form WH-347 for applicable construction contracts. See <http://www.dol.gov/whd/forms/wh347.pdf> .
16. Ensure that the final report adequately addresses the achievement of agreed-upon outputs/outcomes. EPA order 5700.7 can be viewed at <http://www.epa.gov/ogd/grants/award/5700.7.pdf> .
 - i. If a grantee fails to meet planned accomplishments, then the report should provide a satisfactory explanation of the failure.

C. Specific EPA Project Officer Roles and Responsibilities

CLEANUP GRANT

EPA Project Officer (PO) assistance in a cleanup grant may include:

1. Program monitoring;
2. Assisting in the review of cleanup phases;
3. Oversight on operational matters;
4. Reviewing and approving quality assurance project plans/sampling and analysis plans;
5. Reviewing the terms of contractual agreements;
6. Reviewing and approving the analysis of brownfields cleanup alternatives (ABCA);
7. Providing assistance with technical aspects of grant administration;
8. Approval of the substantive terms included in professional services contracts;
9. Analysis of financial and environmental status reports; and
10. Monitoring the grantee's fulfillment of all reporting, record keeping, and other program requirements.
11. If the final report does not adequately address the achievement of outputs/outcomes, then the PO will seek further explanation from the grantee and require appropriate action.

If a grantee obtains assistance from another organization (public, private, or nonprofit) to complete a cleanup grant work, then:

12. EPA reserves the right to review the written agreement(s) to ensure that the agreement(s) is for eligible and allowable costs.

III. Eligible Applicants, Sites, and Uses of Funds

TIP: Proposal Guidelines for Brownfields Assessment, RLF, and Cleanup Grants contain useful information and guidance throughout the life of the grant. For an electronic copy, click on the EPA Brownfields Internet Site on the Contents page of this document, then on the Apply for Grants link to view an electronic version of the latest grant guidelines. These are not just guidelines for writing a proposal!

A. Eligible Entities and Nonprofits

1. To be eligible for funding under the Brownfields Law, the applicant must be an “eligible entity” as defined in CERCLA § 104(k)(1) or a nonprofit as defined in section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107, 31 U.S.C. 6101.

B. Eligible Sites

Sites Eligible for Brownfields Funding

Sites that meet the general definition of a brownfield site provided in CERCLA § 101(39)(A) and not excluded under CERCLA § 101(39)(B). These sites may include:

1. Sites where there is a presence or potential presence of contamination by a hazardous substance as defined in CERCLA § 101(14) or a pollutant or contaminant as defined in CERCLA § 101(33);
2. Sites contaminated by petroleum or a petroleum product (additional analysis required);
3. Sites contaminated by controlled substances; and
4. Mine-scarred lands including drainage and affected associated waters.

Petroleum Contaminated Sites

For a petroleum contaminated site(s) that otherwise meets the general definition of a “brownfield site” to be eligible for funding, State must determine that:

5. The site is of “relatively low risk” compared with other “petroleum only” sites in the state;
6. There is no viable responsible party;
7. The site will not be assessed, investigated or cleaned up by a person that is potentially liable for cleaning up the site; and
8. The site is not subject a corrective action order under § 9003(h) of the Solid Waste Disposal Act. (For more information, please see Appendix of the Proposal Guidelines.)

Sites Requiring a Property-Specific Determination

The following sites are excluded from the general definition of a “brownfield site” but may be eligible for funding if EPA makes a property-specific determination that allows the use of grant funds:

9. Facilities subject to planned or ongoing CERCLA removal actions;
10. Facilities that are subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees, or to which a permit has been issued by the United States government or an authorized state under the Solid Waste Disposal Act, § 311 of the Federal Water Pollution Control Act (FWPCA), the **Toxic Substances Control Act (TSCA)**, or the Safe Drinking Water Act (SDWA);
11. Facilities subject to corrective action orders under **Resource Conservation and Recovery Act (RCRA)** § 3004(u) or § 3008(h) and to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;
12. Facilities that are 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;
13. Facilities where there has been a release of polychlorinated biphenyls (PCBs) and are subject to remediation under TSCA; and

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14. Sites (or portions of properties) that have received specific assistance for response activities under Subtitle I from the RCRA **Leaking Underground Storage Tank (LUST)** Trust Fund.

Property-Specific Funding Determinations

To make a property-specific funding determination, EPA must have the following information:

15. Basic site information including:
 - i. Whether or not the site meets the general definition of a “brownfield site” as defined in CERCLA § 101(39)(A);
 - ii. The identity of the owner (should be grantee for cleanup grants); and
 - iii. The date of acquisition.
16. The specific circumstance that requires this request for a property-specific determination;
17. A short explanation of why the site falls within the identified circumstances requiring the property-specific determination;
18. An explanation of how providing cleanup grant funding will meet the criteria for making a property specific funding determination;
19. The degree to which other funding is or is not available; and
20. An explanation of whether or not the applicant is responsible for the contamination at the site.

The criteria for making a property-specific funding determination include:

21. Whether funding will protect human health and the environment; AND either:
 - i. Whether funding will promote economic development; or
 - ii. Whether funding will promote creation of, preservation of, or addition to parks, greenways undeveloped property, other recreational property, or other property for nonprofit purposes.

C. Ineligible Sites

1. Sites listed, or proposed for listing, on the **National Priorities List (NPL)**;
2. Sites subject to a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree issued or entered into by parties under CERCLA; and
3. Sites subject to the jurisdiction, custody, or control of the US government, except for land held in trust by the US for an Indian tribe.

D. Eligible and Ineligible Activities

Grantees may use cleanup funds for the following activities:

1. Removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant, contaminant, petroleum product, or controlled substance into the environment;
2. Oversight of cleanup activities;
3. Installation of fences, warning signs, or other security or site control precautions;
4. Installation of drainage controls;
5. Stabilization of berms, dikes, or impoundments; or drainage or closing of lagoons;
6. Capping of contaminated soils;
7. Using chemicals and other materials to retard the spread of the release or mitigate its effects;
8. Excavation, consolidation, or removal of contaminated soils;
9. Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum;
10. Removal of source materials, including free product recovery;
11. Containment, treatment, or disposal of hazardous materials and petroleum products;
12. Site monitoring activities, including sampling and analysis, that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup;
13. Sampling as related to design and implementation of a selected cleanup plan; and
14. Costs associated with documenting the ABCA.

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Cleanup grant funds **cannot** be used for the following activities:

15. Pre-cleanup environmental activities (e.g., site assessment, identification, and characterization with the exception of site monitoring activities);
16. All indirect cost, even if the grantee has an approved indirect cost rate from its cognizant federal audit agency;
17. Sampling activities related to analyzing cleanup alternatives;
18. Addressing public or private drinking water supplies that have deteriorated through ordinary use;
19. A cleanup or other response cost at a brownfields site for which the recipient of the grant is potentially liable under CERCLA § 107;
20. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action;
21. Construction, demolition, and development activities that are not cleanup actions (e.g., marketing of property or construction of a new facility);
22. Cost sharing or matching requirement for another federal grant (absent statutory authorization);
23. Support of job training covered by EPA's CERCLA § 104(k)(6) grant program;
24. Support of lobbying efforts; or
25. Purchasing insurance coverage for the above ineligible costs.

E. Eligible, Allowable, and Ineligible Costs

Grantees may use cleanup funds for the following costs:

1. Costs for design and performance of a response action;
2. Costs for monitoring of a natural resource (e.g., soil, groundwater) for contamination;
3. Expenses for site cleanup activities under CERCLA § 104(k)(3)(A)(ii);
4. VCP or state cleanup program fees associated with the site remediation;
5. Costs required to purchase insurance if the purchase of such insurance is necessary to carry out cleanup activities (e.g., environmental insurance);
6. Costs incurred for complying with procurement provisions of 40 C.F.R. Part 30 and 40 C.F.R. Part 31 as applicable. These costs are considered eligible programmatic costs only if the procurement contract is for services or products that are direct costs of activities specified in statutory exceptions to the administrative cost prohibition or eligible programmatic costs described in this section;
7. Costs for performance and programmatic financial reporting required under 40 C.F.R. §§ 30.51–30.52 and 40 C.F.R. §§ 31.40–31.41 are eligible programmatic costs;
8. Costs associated with monitoring the health of populations exposed to hazardous substances from a brownfields site (eligibility limited to local government grantees; cost cannot exceed 10 percent of the grant funds);
9. Costs associated with monitoring and enforcing institutional controls used to prevent human exposure to hazardous substances at a brownfields site are considered eligible costs (eligibility limited to local government grantees; cost cannot exceed 10 percent of the grant funds);
10. Costs associated with meeting public participation, community notification, worker health and safety, and programmatic management requirements; and
11. Expenses for travel, training, equipment (typically not allowed, verify approval with EPA), supplies (paper, ink, toner etc.), reference materials, contractual support, and “other” category (printing, reproduction, postage/ mailing, telephone), if those costs are reasonable and can be allocated to tasks specified in an approved scope of work for carrying out the activities specified in statutory exceptions to the administrative cost prohibition (e.g., design and performance of a cleanup action or monitoring a natural resource for contamination) or other eligible programmatic costs. For example, costs for training grantee’s own personnel are eligible and allowable if the costs are for training employees who perform work under the cleanup grant.

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Grantees may **not** use cleanup funds for the following costs:

12. Penalties or fines;
13. Federal cost-share requirements (absent statutory authorization);
14. Administrative costs (see below);
15. Response costs at a brownfield site for which the grantee is potentially liable under CERCLA § 107;
16. Costs related to complying with federal laws other than those applicable to the cleanup; or
17. Purchasing insurance coverage for the above ineligible costs.

The administrative cost prohibition includes:

18. Costs associated with compliance with most provisions of 40 C.F.R. Part 30 or 40 C.F.R. Part 31. Such compliance costs include, but are not limited to, costs for:
 - i. Record retention;
 - ii. Maintaining and operating financial management systems;
 - iii. Accounting tasks;
 - iv. Revising budgets, scopes of work, program plans; and
 - v. Closing out a grant award
19. All indirect costs under OMB Circulars:
 - i. Educational Institutions: 2 C.F.R. Part 220
 - ii. State and Local Governments: 2 C.F.R. Part 225
 - iii. Non-Profit Organizations: 2 C.F.R. Part 230 and
 - iv. Subpart 31.2 of the Federal Acquisition Regulation.
 - v. CFRs: <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> ; All OMB circulars: <http://www.whitehouse.gov/omb/circulars/>
20. Proposal preparation costs, including associated consultant fees.

F. CERCLA Liability and Protections

Grantees must establish one of the following CERCLA liability protections and must not be otherwise liable:

1. **Bona fide prospective purchaser protection (BFPP);**
2. **Contiguous property owner protection (CPO);**
3. **Innocent landowner protection (ILO);** or
4. Other CERCLA liability exemption/defense.

To obtain liability protection as a BFPP, a CPO, or an ILO, the party must satisfy applicable:

5. Threshold criteria; and
6. Continuing obligations criteria.

Further information which describes criteria landowners must meet can be found at:

<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-elem-ref.pdf>

IV. Cleanup Grant Financial Management

A. Financial Oversight and Management

EPA POs provide information to grantees to assist them with the following:

1. Ensuring that cleanup grant efforts comply with cooperative agreement terms and conditions; and
2. Assist with reimbursement of funds towards eligible activities and allowable costs.

The grantee is responsible for managing grant funds to conform with:

3. The cooperative agreement terms and conditions;
4. Applicable laws and regulations; and
5. Prudent financial management practices and competitive procurement.

If the grantee seeks expertise from an outside source to assist with grant management, the grantee must:

6. Follow competitive procurement procedures applicable to EPA grant regulations at 40 C.F.R. §§ 30.41 – 30.48 or 40 C.F.R. § 31.36.

The following individual(s) or organization(s) may be hired to provide financial management services, if the grantee (or in-house staff) is not qualified:

7. A private for-profit entity;
8. A different unit of government; or
9. A qualified government employee.

B. Financial Administration Standards

Each grantee must ensure that its financial management system meets the standards set forth in 40 C.F.R. § 30.21 or 40 C.F.R. § 31.20 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments or the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, respectively:

1. **Financial Reporting:** Accurate, current, and complete disclosure of the results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant.
2. **Accounting Records:** Grantees must maintain records that adequately identify the source and application of funds provided for financially assisted activities.
3. **Internal Controls:** Effective control and accountability must be maintained for all grant cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must ensure that it is used solely for authorized purposes.
4. **Budget Controls:** Actual expenditures must be compared with budgeted amounts for each grant. Financial information must be related to performance or productivity data. Grantees are permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by EPA, certain types of post-award changes in budgets require the prior written approval of the EPA (see 40 C.F.R. § 30.25 or 40 C.F.R. § 31.30(c) for the complete list).
5. **Allowable Costs:** In determining what costs are reasonable, allowable, and allocable, the grantee must follow applicable OMB cost principles, agency program regulations, and the terms of the grant cooperative agreement in determining the reasonableness, allowability, and allocability of costs.
6. **Source Documentation:** Accounting records must be supported by source documentation (for example, cancelled checks, paid bills, payrolls, time and attendance records, grant award documents).

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7. **Cash Management:** Electronic transfer of funds is required for reimbursement from the U.S. Treasury. Advance payment procedures are not used in EPA Region III.

C. Create and Manage Budget

The grantee must:

1. Develop an approach for managing the project budget:
 - i. Include a detailed description and narrative of each performance or productivity task
 - ii. Create and maintain an adequate accounting record and source documents to substantiate the amount of grant funds expended for eligible costs; and
2. Report financial expenditures related to project activities;
3. Reflect the cost-share requirement; and
4. Show distribution of funds for each of the tasks.

D. Payment Schedule

1. Grantees shall be paid on a reimbursement system of payment (see 40 C.F.R. § 30.22 or 40 C.F.R. § 31.21).

E. Funds Draw Down and Program Income

1. Grantees draw down grant funds when there is a need to pay for an eligible activity or cost. EPA Region III does not allow advance payments.
2. Procedures for funds draw down, including recipient's manual for electronic funds transfer, can be located at: <http://www.epa.gov/ocfo/finservices/payinfo.htm>
3. Interest earned on program income is considered additional program income.

Program income includes, but is not limited to fees charged for:

4. Cleanup planning; or
5. Other activities when the costs for the activities are charged to this agreement.

F. Cost-Share Requirement

The grantee must contribute a **20% cost-share** of the total cooperative agreement award in the form of cash, labor, materials, or services from non-federal sources.

G. Identifying Supplemental Sources of Funds

The cleanup grant offers financing for the initial cleanup phase of a brownfields redevelopment site, but stakeholders can use other sources of federal and non-federal funding to cover costs that are ineligible under the assessment grant.

Other sources of funds include financial assistance from:

1. Federal agencies;
2. States;
3. Political subdivisions;
4. Indian tribes; and
5. Private parties.

The grantee can explore other public financing options such as: loans from EDA, HUD, CDBG, SBA, and others; loan guarantees; grants from HUD BEDI, HUD CDBG, DOT, TCSP, USACE and others; equity capital; tax incentive and tax-exempt financing; and tax-advantage zones.

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V. Environmental Cleanup Responsibilities

Grantee must recognize their environmental cleanup responsibilities and should use this checklist to ensure that all requirements in the environmental cleanup process are met and that all appropriate steps toward the implementation of a site cleanup are taken.

All mandatory cleanup activities are noted with an asterisk. Other activities are recommended but not required. Note that this checklist does not include site evaluations because they are not considered a process funded by cleanup grants.

Although the checklist uses specific terms, EPA anticipates that the majority of the cleanups will be performed through state 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 requirements listed below as long as they cover the same elements and include the necessary information.

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 threatened or endangered species to ensure that the requirements of Section 106 of **National Historic Preservation Act (NHPA)** or Section 7(a) of the **Endangered Species Act (ESA)** are met.

A. Determine Whether the Environmental Cleanup is Authorized

1. *Both the site and grantee are eligible for grant funds;
2. *Cleanup activities at a particular site are authorized by CERCLA § 104(k); and
3. *The grantee complies with the terms and conditions of the grant.

B. Conducting an Environmental Cleanup

1. *The grantee should consider the use of state voluntary cleanup or response programs; and
2. *If not in a state VCP, consults with EPA on cleanup levels that are protective of human health and the environment.

If the project grant is terminated, the grantee must:

3. *Ensure that the site is secure and poses no immediate threat to human health or the environment; and
4. *Notify the appropriate state agency and EPA to ensure an orderly transition to other appropriate cleanup activities.

C. Establishing an Administrative Record

The grantee must establish an Administrative Record, readily accessible to the public, to include:

1. *An analysis of reasonable alternatives (as appropriate for hazardous substances or petroleum sites);
2. *A site-specific community relations plan:
 - i. Opportunities for public involvement throughout the cleanup process;
3. *Response to public comments on cleanup and redevelopment plans; and
4. *Verification that shows cleanups are complete.

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D. Conducting an Analysis of Brownfields Alternatives (ABCA)

1. An Analysis of Brownfield Cleanup Alternatives (ABCA) typically includes sections describing the background and current conditions of the site (maps, previous uses, assessment findings, reuse goals), applicable regulations and cleanup standards, an evaluation of cleanup alternatives and a recommended remedial action. The evaluation of cleanup alternatives is based on the effectiveness, ease of implementation and cost of each remedial action. Prepare an Analysis of Brownfields Alternatives (ABCA) that includes the following:

- i. Information about the site and contamination issues;
- ii. Information on the effectiveness, implementability, and cost of each cleanup alternative;
- iii. A comparative analysis of the alternatives considered, including no action;
- iv. Availability of the analysis for public notice and comment (usually 30 days); and
- v. To ensure that cleanups remain effective as the climate changes, EPA has added a new term and condition starting in the FY13 Cleanup and Revolving Loan Fund (RLF) grants that requires recipients to “evaluate the resilience of the remedial options in light of reasonably foreseeable changing climate conditions.”
http://www.epa.gov/brownfields/sustain_plts/factsheets/EPA_OBLR_Climate_Adaptation_Checklist.pdf

E. Selecting Environmental Cleanup Technologies

The grantee must:

1. Establish goals for cleanup that consider the end use and use either published state or federal guidelines, risk-based correction actions, or site-specific assessment results;
2. Involve community in the cleanup selection process;
3. Reviews general cleanup technology information;
4. Selects most appropriate technology to address site contamination:
 - i. Networks with stakeholders and environmental professionals;
 - ii. Determines if sufficient data is available to support identification and evaluation of cleanup alternatives;
 - iii. Evaluates options against a number of factors including toxicity levels, exposure pathways, associated risk, future land use, and economic considerations;
 - iv. Analyzes the applicability of a particular technology to the contamination identified at a site; and
 - v. Determines the effects of various technology alternatives on redevelopment objectives;
5. Continues to work with appropriate regulatory agencies to ensure that regulatory requirements are addressed properly;
6. Integrates cleanup alternatives with reuse alternatives to identify potential constraints on reuse and time schedules to assess cost and risk factors;
7. Selects an acceptable remedy that addresses the risk of contamination, meets the objectives of reuse and redevelopment, and addresses the needs of the community; and
8. Communicates information about the proposed cleanup to stakeholders and affected community.

F. Understand Institutional Controls

The grantee must understand applicable:

1. Private (or proprietary) controls;
2. Government controls;
3. Enforcement tools; and
4. Informational devices.

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G. Establish Community Involvement

The grantee must:

1. *Develop a **community relations plan (CRP)**. All cleanup activities require a site-specific CRP or its equivalent that includes providing reasonable notice, opportunity for involvement, response to comments, administrative records that are available to the public, and progress reports throughout the life of the project; and
2. Submit the completed CRP to EPA for review.
3. *Publish a notice of availability of the ABCA or its equivalent (may include notice of administrative record) to inform the general community;
4. *Provide opportunity for written and oral comments; and
5. *Provide a written response to significant and appropriate comments, and document any changes made to the cleanup plan.

H. Completing and Documenting the Environmental Cleanup

The grantee must:

1. Assess whether institutional controls (land use controls) will be necessary;
2. Verify that any required institutional controls are in place and that life cycle plans for long term evaluation have been addressed; and
3. *Prepare a Final Report on the cleanup operation and actions taken, documenting:
 - i. That the situation was addressed;
 - ii. The actions that were taken;
 - iii. Sampling shows cleanup objectives were met;
 - iv. The resources committed; and
 - v. Any problems encountered.
4. Competency of Data - This policy is applicable to all new grant awards over \$200,000 (would apply to a cleanup grant with a waiver) awarded after October 1, 2013 that generate or use environmental data. Under the new policy, basically all of our BF grants that generate or use environmental data will need to demonstrate their competency (qualifications) prior to performing environmental data collection activities. [Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements \(PDF\)](#). See also: http://www.epa.gov/fem/lab_comp.htm

VI. Reporting and Record Keeping Responsibilities

A. Grantees shall perform the following reporting tasks:

1. Quarterly Reports of accomplishments and activities must be submitted within 30 days of the end of each federal fiscal quarter (due **January 30 (Quarter 1), April 30 (Quarter 2), July 30 (Quarter 3) and October 30 (Quarter 4)**). Quarterly reports must include items listed in 40 C.F.R. § 30.51 or 40 C.F.R. § 31.40. Examples include:
 - i. Documentation of progress at meeting the performance outputs/outcomes, project narrative, project time line and an explanation for any inability in meeting established outputs/outcomes;
 - ii. Clearly identify in quarterly reports the activities undertaken with EPA funds. Include firm leveraging or voluntary cost share achievements;
 - iii. Explain how EPA-funded activities relate to the objectives and milestones agreed upon in the work plan;
 - iv. An update on project milestones;
 - v. New or updated **Property Profile Form(s)** on an as needed basis.
 - Use the ACRES program: <http://www.epa.gov/brownfields/pubs/acres/index.htm> to input data ;
 - vi. A budget recap summary page with the following headings: Current Approved Budget; Costs Incurred this Quarter; Costs Incurred to Date; and Total Remaining Funds; and
 - vii. If applicable, quarterly reports must separately specify costs incurred for hazardous and petroleum work.
 - viii. Firm commitments of leveraged funding must be tracked in the quarterly progress reports as well as ACRES leveraged funds.
 - ix. Quarterly report template can be found at:
<http://www.epa.gov/reg3hwmd/bf-lr/granteereporting.htm>
2. Federal Financial Report (FFR) (SF 425)
 - i. Reports are **required even if no drawdowns are made** during the reporting period.
 - ii. Annual interim FSRs are due within 90 days following the end of the quarter of the anniversary of the budget period start date (refer to your cooperative agreement). Please email the completed report to EPA's Las Vegas Finance Center at lvfc-grants@epa.gov . If you are unable to email the form, please either fax the report to 702-798-2423 or mail the report to 4220 S. Maryland Pkwy, Bldg C, Rm 503, Las Vegas, NV 89119. For more information contact: Peter Puglisi, LVFC, at 702-798-2426 or puglisi.peter@epa.gov .
 - iii. See Close-Out procedures for instructions on submittal of Final FFR.
3. Disadvantaged Business Enterprise DBE (formerly MBE/WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreement report (EPA Form 5700-52A) - It is EPA's policy (40 CFR Sec. 31.36(e), 40 CFR Sec. 30.44(b), and 40 CFR Sec. 33) that recipients of EPA financial assistance through grants and cooperative agreements award a "fair share" of subagreements to small, minority and women-owned businesses. Since each is a separate entity, the objective is to assure that each of these business entities is given the opportunity to participate in subagreements awards under EPA financial assistance agreements. This policy applies to all subagreements for equipment, supplies, construction and services under all EPA grants and cooperative agreements. The DBE Program is an outreach, education, and goaling program designed to increase the participation of DBEs in procurements funded by EPA assistance agreements. For more information see: <http://www.epa.gov/osbp/grants.htm>.
 - i. Reports are **required even if no procurements are made** during the reporting period.
 - ii. This report is required on a semi-annual basis. The report is due within 30 days of the end of the appropriate Federal fiscal quarter (due **April 30 (for period Oct 1 to Mar 31) and October 30 (for period Apr 1 to Sep 30)**).

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- iii. Please submit reports to Cynthia Burrows, Diversity/EEO Manager (3PM00), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. Phone: 215-814-5108, email: burrows.cynthia@epa.gov.
4. **Single Audit Report.** OMB Circular A-133, which implements the Single Audit Act Amendments of 1966, requires recipients that expend \$500,000 or more in total Federal funds from all Federal awards in a fiscal year to arrange for an independent auditor to perform a single audit. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. The recipient **MUST** submit the SF-SAC and a Single Audit Report Package using the Federal Audit Clearinghouse's Internet Data Entry System. For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>
5. Electronic copies of forms can be found at <http://www.epa.gov/region03/grants/repforms.htm> and <http://www.epa.gov/ocfo/finservices/payinfo.htm>

B. Grantees shall perform the following record maintenance tasks:

1. Maintain adequate accounting records and source documentation to substantiate the amount and percentage of program income expended for eligible programmatic costs;
2. Comply with applicable Office of Management and Budget (OMB) cost principles when charging costs;
3. Maintain records for at least 3 years after submission of the final expenditure report (See 40 C.F.R. § 30.53 or 40 C.F.R. § 31.42 for details); and
4. Know that periodic audits of EPA programs are conducted by an outside auditor in accordance with Government Accountability Office (GAO) accounting standards or generally accepted government auditing standards.

C. Grantee must ensure performance of work plan objectives:

1. The final report shall adequately address the achievement of agreed-upon outputs/outcomes, or further explanation from the grantee and/or appropriate action may be required.
2. If the grantee fails to meet planned accomplishments, then the report should provide a satisfactory explanation of the failure.
3. Under the Government Performance and Results Act, EPA may contact the grantee well after the grant period of performance to collect information on additional resources leveraged as a result 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.

VII. Closeout Procedures

A. Closeout Process and Responsibilities

1. Grantee must complete all administrative actions and work required under the cooperative agreement.
2. The grantee received final payment of funds from EPA.
3. EPA shall deobligate all funds unused by the grantee.
4. All cleanups funded by and specified in the award were completed.

Deobligation Schedule

The grantee shall complete the following actions:

5. Provide evidence, through quarterly reports, that significant progress was made towards completing work under the cooperative agreement;
6. Request final payment of award funds from EPA within 90 days of the cooperative agreement end date; and
7. Disbursement of any accrued program income before requesting final payment from EPA.

Reporting

Grantee reporting obligations must be completed within 90 days after the expiration or termination of the grant include, but are not limited to:

8. Final performance or progress reports (See also II.B.16 (pg. 20) Outputs and Outcomes);
 - i. The final technical/performance report must be submitted to the EPA Project Officer listed on the Assistance Agreement in accordance with the terms and conditions and/or approved work plan. For content of the final report refer to 40 CFR 30.51(d) or 40 CFR 31.40(b)(2), whichever is applicable, and the terms and conditions of the grant. Include firm leveraging or voluntary cost share achievements. For questions regarding content of the final report, please contact the EPA Project Officer.
9. Final Federal Financial Report (FFR) (SF 425).
 - i. The final FFR and payment request are due no later than 90 days after the end of the project/budget period. Please email the completed report to EPA's Las Vegas Finance Center at lvfc-grants@epa.gov . If you are unable to email the form, please either fax the report to 702-798-2423 or mail the report to 4220 S. Maryland Pkwy, Bldg C, Rm 503, Las Vegas, NV 89119. For more information contact: Peter Puglisi, LVFC, at 702-798-2426 or puglisi.peter@epa.gov .
10. Final DBE (formerly MBE/WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreement report (EPA Form 5700-52A)
 - i. A final Minority/Women's Business Enterprise Utilization Report (MBE/WBE) (EPA Form 5700-52A) must be completed which identifies funds expended for supplies, equipment, contractual services or construction during the life of the assistance agreement. The final report should include only those expenditures that were not previously reported, as well as a negative report, if no funds were expended during the time period of the last report. The completed and signed report must be submitted to Attn: Cynthia Burrows, Diversity/EEO Manager (3PM00), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. Phone: 215-814-5108, email: burrows.cynthia@epa.gov.
11. Lobby and Litigation Certificate (EPA Form 5700-53) A Lobbying & Litigation Certification (EPA Form 5700-53) is required at the end of the grant period to certify that no federal assistance funds were used to engage in lobbying the Federal Government or in litigation against the United States unless authorized under existing law. (Reference: EPA's annual appropriations acts for fiscal year 2002 and fiscal year 2003, PL 106-74, §426 and PL 106-377, §424 respectively). This form must be submitted to: **US EPA, Grants and Audit Management Branch (3PM70), 1650 Arch Street, Philadelphia, PA 19103-2029**. For more information, please contact your **EPA Grants Specialist** listed on the Assistance Agreement.
12. Final request for payment to Las Vegas office (Form 190-F-04-001)

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- i. See #8 above;
13. Cleanup reports (with information on cleanup dates);
14. Institutional controls, where appropriate;
15. Invention disclosure (as applicable)
 - i. If any inventions were developed under this project, an Invention Disclosure Report containing: Name of Invention, Market Value and Ownership Rights must be submitted to the EPA Project Officer listed on the Assistance Agreement;
<http://www.epa.gov/glnpo/fund/applicationpac/Management/EPAForm3340-4.pdf> ;
16. Property profile forms (ACRES); and
17. A federally owned property inventory report (in accordance with 40 C.F.R. § 31.32(f)).
 - i. If there is: a) any equipment, acquired under the grant, with a current per unit fair market value in excess of \$5,000 that you no longer need for this project/program* or b) a residual aggregate fair market value of unused supplies acquired under the grant exceeding \$5,000, request disposition instructions from the EPA Project Officer listed on the Assistance Agreement. *For non-Superfund grants, States may dispose of equipment in accordance with State laws and procedures.
 - ii. If your inventory contains property where title remains vested by law in the Federal Government (not purchased with grant funds), submit an inventory containing a description of the property, decal number and current condition to the EPA Project Officer listed on the Assistance Agreement.
18. Electronic copies of forms can be found at <http://www.epa.gov/region03/grants/repforms.htm> and <http://www.epa.gov/ocfo/finseervices/payinfo.htm>

Closeout Interview/Report

19. The final report shall adequately address the achievement of agreed-upon outputs/outcomes, or further explanation from the grantee and/or appropriate action may be required.
20. If the grantee fails to meet planned accomplishments, then the report should provide a satisfactory explanation of the failure.
21. EPA reports the information through the National Program Managers' reporting processes.

Record Keeping

- Grantees must follow post-closeout record maintenance responsibilities:
22. Maintenance of records for at least 3 years after completion of the assessment agreement; and
 23. Continued records maintenance if a claim, audit, or negotiation related to the records is unresolved at the end of the 3-year retention period.

Unused Funds

- Grantee must ensure proper handling of unused funds:
24. Grantee must comply with 40 C.F.R. § 30.71 - 30.73 and 40 C.F.R. § 31.50 – 31.52 and return unused funds.

Notice of Closeout

25. EPA POs will follow regional procedures for notifying the grants management office (GMO) of its intent to close out the cooperative agreement and submit an official grant file for electronic filing.

B. Non-Compliance

1. In a case of termination for non-compliance, dispute procedures are described in 40 C.F.R. § 30.63 or 40 C.F.R. § 31.70 in a case of an enforcement action for non-compliance.

EPA may, under 40 C.F.R. § 30.62(a)(3) or 40 C.F.R. § 31.43(a)(3), remedy non-compliance cooperative agreement terms and conditions by any or all of the following:

2. Temporarily withholding payments;

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3. Disallowing all or part of cost activities;
4. Initiating a whole or partial suspension or termination;
5. Withhold further awards for the program; and/or
6. Take other remedies that may be legally available.

EPA may also, under CERCLA § 104(k)(7)(C), take the following actions to remedy non-compliance with the cooperative agreement terms and conditions:

7. Terminate the grant;
8. Require the grantee to repay funds received; and
9. Seek other available legal remedies.

C. Termination for Convenience

1. Under 40 C.F.R. § 30.61(a)(3) or 40 C.F.R. § 31.44(a), EPA and the grantee may mutually agree to terminate a cleanup grant, in whole or in part.
2. The grantee may initiate termination for convenience under 40 C.F.R. § 30.61(a)(3) or 40 C.F.R. § 31.44(b). To do so, the grantee must provide the following:
 - i. Written notification to EPA setting forth the reasons for termination; and
 - ii. If the grantee seeks to terminate only a portion of the grant, the written statement must specify the portion to be terminated.

APPENDICES

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Appendix A. Acronyms

AAI All Appropriate Inquiry
ABCA Analysis of Brownfields Cleanup Alternatives
ATSDR	..... Agency for Toxic Substances and Disease Registry
BEDI	..... Brownfields Economic Development Initiative (HUD)
BFPP	..... Bona Fide Prospective Purchaser
CAR	..... Cooperative Agreement Recipient
CDBG	..... Community Development Block Grants (HUD)
CERCLA	.... Comprehensive Environmental Response, Compensation, and Liability Act
CFDA	..... Catalog of Federal Domestic Assistance
CFR	..... Code of Federal Regulations
CPO	..... Contiguous Property Owner
CRP	..... Community Relations Plan
DOT	..... United States Department of Transportation
EDA	.....United States Department of Commerce, Economic Development Administration
EI	..... Environmental Insurance
EPA	..... United States Environmental Protection Agency
ESA	..... Endangered Species Act
FAQ	..... Frequently Asked Question
FOIA	..... Freedom of Information Act
FWPCA	..... Federal Water Pollution Control Act
GAO	..... United States Government Accountability Office
GPRA	..... Government Performance and Results Act
HAZWOPER	..... Hazardous Waste Operations and Emergency Response
HUD	..... United States Department of Housing and Urban Development
IC	..... Institutional Controls
ILO	..... Innocent Landowner
LUST	..... Leaking Underground Storage Tank

Appendix A. Acronyms

MBE	.....	Minority Business Enterprise
MPO	.....	Metropolitan Planning Organization
NCP	.....	National Oil and Hazardous Substances Pollution Contingency Plan
NHPA	.....	National Historical Preservation Act
NPL	.....	National Priorities List
OIG	.....	EPA's Office of Inspector General
OMB	.....	United States Office of Management and Budget
OPA	.....	Oil Pollution Act
OSHA	.....	Occupational Safety and Health Administration
OSWER	.....	Office of Solid Waste and Emergency Response
PCBs	.....	Polychlorinated Biphenyls
PO	.....	Project Officer
PPF	.....	Property Profile Form
QAPP	.....	Quality Assurance Project Plan
QEP	.....	Qualified Environmental Professional
RCRA	.....	Resource Conservation and Recovery Act
SBA	.....	United States Small Business Administration
SF	.....	Standard Form
SDWA	.....	Safe Drinking Water Act
TCSP	.....	Transportation & Community System Preservation
TSCA	.....	Toxic Substances Control Act
USACE	.....	United States Army Corps of Engineers
USC	.....	United States Code
USDA	.....	United States Department of Agriculture
VCP	.....	Voluntary Cleanup Program
WBE	.....	Women's Business Enterprise

Appendix B. Glossary of Specialized Terms

Administrative Record. All documents considered or relied on in selecting the response action at a cleanup grant site. The grantee is required to establish an administrative record file for each cleanup grant site.

All Appropriate Inquiry. Steps a prospective owner must take to qualify for Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner liability protections. A property owner must perform “all appropriate inquiry” into the previous ownership and uses of property before acquisition of the property. EPA published the Final Rule for All Appropriate Inquiries (AAI) on November 1, 2005. This rule became effective on November 1, 2006. In conjunction with the development of the final rule for AAI, ASTM International updated the E1527-00 standard. The ASTM E1527-13 Phase I Environmental Site Assessment standard is consistent and compliant with EPA’s final rule, and may be used to comply with the provision of the final rule for AAI.

ASTM International Phase I assessment. Provides standards for conducting an environmental site assessment of a parcel of commercial real estate with respect to the range of contaminants within the scope of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and petroleum products. Use of this practice permits a user to satisfy one of the requirements to qualify for the innocent landowner, bona fide prospective purchaser, and contiguous property owner, defenses to CERCLA liability: that is, the practices that constitute “all appropriate inquiry into the previous ownership and uses of the facility in accordance with generally accepted good commercial or customary standards and practices” as defined in 42 USC § 9601(35) (B).

Analysis of Brownfields Cleanup Alternatives (ABCA). An analysis of cleanup alternatives the cooperative agreement recipient must conduct to choose and document the most appropriate cleanup action considering the site characteristics, surrounding environment, land-use restrictions, and potential future uses.

Automated Standard Application for Payments (ASAP). A federal payment mechanism that transfers cash to recipients of federal assistance using electronic transfers managed by the Treasury and the Federal Reserve Bank of Richmond.

Bona Fide Prospective Purchaser (BFPP). A CERCLA liability protection for property owners that have acquired property after January 11, 2002. For the specific requirements a landowner must meet in order to avail itself to this liability protection, refer to CERCLA § 101(40) and § 107(r).

Brownfields. 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. (See CERCLA § 101(39)(A)).

Appendix B. Glossary of Specialized Terms

- Brownfields Economic Redevelopment Initiative.** An organized effort, developed by EPA, to assist communities in revitalizing brownfields both environmentally and economically. The Initiative is based on the principle that a clean and healthy environment is vital to a growing and robust economy.
- Brownfields Management System (BMS).** The Brownfields Management System is a database that maintains records of EPA Brownfields awards nationwide. It contains quarterly data for all sites under the Brownfields Initiative.
- Cleanup Action.** Action associated with removing, mitigating, or preventing a release or threat of a release of a hazardous substance, pollutant, or contaminant.
- Code of Federal Regulations (CFR).** This document codifies all rules of the executive departments and agencies of the federal government. It is divided into 50 volumes known as titles. Title 40 of the CFR (referenced as 40 CFR) lists environmental regulations.
- Community Relations Plan (CRP).** Specifies the community involvement activities that the cooperative agreement recipient expects to undertake during the cleanup, based on community interviews and other relevant information, prior to completion of the ABCA or its equivalent. The cooperative agreement recipient is required to prepare a community involvement plan for EPA review and approval.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).** Commonly known as Superfund, this law was enacted by Congress on December 11, 1980. CERCLA provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment.
- Contiguous Property Owner (CPO).** A CERCLA liability protection that “protects parties that are essentially victims of pollution incidents caused by their neighbor’s actions.” Contiguous property owners must perform all appropriate inquiry prior to acquiring property. Persons who know, or have reason to know, prior to purchase, that the property is or could be contaminated, cannot qualify for the contiguous property owner liability protection. A landowner must meet the criteria set forth in CERCLA § 107(q) to qualify as a CPO. Please note that a purchaser may still qualify as a bona fide prospective purchaser.
- Cooperative Agreement.** An assistance agreement whereby EPA transfers money, property, services or anything of value to a state, local or tribal government, university, non-profit, or not-for-profit organization for the accomplishment of authorized activities or tasks. In the case of cleanup grants, the cooperative agreement awards federal funds according to specified standard terms and conditions, as well as any special terms and conditions, related to environmental management and cleanup requirements, reporting requirements, record keeping, etc. The EPA may be substantially involved in overseeing and monitoring the cooperative agreement.

Appendix B. Glossary of Specialized Terms

Cost-Share. The requirement that cooperative agreement recipients contribute a percentage of federal award funds. In the cleanup grant program, cooperative agreement recipients must contribute 20% of the total cooperative agreement award (i.e., EPA-awarded funds) towards the cleanup grant. The cost-share contribution may be in the form of cash, labor, material, or services from non-federal sources.

Cross-cutting Federal Requirements. Those requirements which are applicable to the cleanup grant by operation of statutes, executive orders, and regulations other than CERCLA and associated administrative authorities.

Eligible Entity. CERCLA § 104(k)(1) defines an “eligible entity” as a general purpose unit of local government; a 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 a local government; a government entity created by a state legislature; a regional council or group of general purpose units of local government; a redevelopment agency that is chartered or otherwise sanctioned by a state; an Indian tribe other than in Alaska; or an Alaska Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act and the Metlakatla Indian community. An eligible entity as defined above qualifies for a cleanup grant.

Grantee. Eligible entity that enters into a cooperative agreement with EPA to receive grant funding. Also referred to as a cooperative agreement recipient (CAR).

Greenfields. Greenfields are generally parkland, undeveloped open space and agricultural lands located near the outskirts of towns, cities and larger metropolitan areas. These areas help delineate one village, city or town from another, or where development is occurring and where it is not. When they are protected, greenfields can serve to promote growth in already-developed areas and curb urban sprawl. As parks and greenways, they also provide the green infrastructure essential to livable communities.

Innocent Landowner (ILO). A CERCLA liability protection for property owners who have performed all appropriate inquiry prior to purchase and who did not know, or have reason to know, of contamination. A person must meet the criteria set forth in CERCLA § 107(b) (3) and CERCLA § 101(35) to have a viable defense as an innocent landowner.

Memorandum of Understanding (MOU). A method to express mutual commitments to work together in advancing mutual objectives. It is a vehicle for obtaining or providing other non-monetary support, including supplies, equipment, chemicals, personnel, etc.

National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The federal regulation (40 CFR Part 300) that guides the federal government’s response to both oil spills and hazardous substance releases.

Appendix B. Glossary of Specialized Terms

Non-profit Entity. For the purposes of the brownfields grant program, EPA will use the definition of non-profit organizations contained in Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107. The term “non-profit organization” means any corporation, trust, association, cooperative, or other organization which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized primarily for profit; and uses its net proceeds to maintain, improve, and/or expand its operations. This definition may include universities and hospitals. See OMB Circular A-122 (now 2 C.F.R. Part 230) for more information on non-profit entities.

Payment. EPA’s transfer of funds to the grantee. Also referred to as “draw down.”

Program Income. The gross income received by the grantee, directly generated by the cooperative agreement award or earned as a result of the cooperative agreement.

Qualified Environmental Professional (QEP). The official designated to coordinate and direct cleanup actions at a cleanup site or sites. He/she helps the grantee carry out its responsibilities on a site-specific basis, and must be a qualified employee working on behalf of grantee. The QEP serves the role of the On-Scene Coordinator (OSC), as defined by the NCP, but does not have to be a government official.

Quality Assurance Project Plan (QAPP). Establishes and communicates the grantee’s goals and how the brownfield site assessment will reach those goals. It should combine planning for the entire project, including management, sampling, analysis, data review/evaluation, and reporting. The most common process for developing a QAPP for your site is the data quality objectives (DQOs) process.

Uniform Administrative Rules - 40 C.F.R. Parts 30 and 31. 40 C.F.R. Part 30 - This federal regulation establishes uniform administrative rules for federal grants and agreements awarded to institutions of higher education, hospitals, and non-profit organizations. These regulations will be applicable to subgrants awarded to non-profit organizations. 40 C.F.R. Part 31 - This federal regulation establishes consistency and uniformity among federal agencies in the management of grants and cooperative agreements with state, local and federally recognized Indian tribal governments. see Code of Federal Regulations (C.F.R.).

Voluntary Cleanup Program (VCP). State-operated cleanup programs focused on addressing the environmental, legal, and financial barriers that often hinder the redevelopment and reuse of contaminated properties. Cleanup grant funds may be used to clean up a site pursuant to a state VCP so long as the cleanup meets the substantive and procedural requirements of CERCLA and the NCP and all terms and conditions of the cooperative agreement are met.

Appendix C. Cleanup Tools

Analysis of Brownfields Cleanup Alternatives

EPA's Road Map to Understanding Innovative Technology Options (or alternatives) for Brownfields Investigation and Cleanup is available online <http://www.clu-in.org/s.focus/c/pub/i/1197/>

The Center for Public Environmental Oversight (CPEO) has a database for assessment of appropriate remediation alternatives called Tech Tree. Tech Tree is available at: <http://www.cpeo.org/tree.html>.

To help communities understand how to analyze brownfields cleanup alternatives, EPA has published a document, Summary of the Triad Approach, that analyzes the Triad approach to decision-making for hazardous waste sites and managing decision uncertainty. The Triad refers to its three primary components: systematic planning, dynamic work strategies, and real-time measurement systems.

See: <http://www.triadcentral.org/ref/doc/triadsummary.pdf>

On September 1, the EPA Technology Innovation Office announced the release of the Remediation Technology Cost Compendium – Year 2000 (EPA 542-R-01-009). This new report provides a summary and analysis of historical cost information for six commonly-applied remediation technologies to clean up contaminated soil and groundwater. The report can be accessed at:

<http://www.clu-in.org/techdrct/techpubs.asp>.

Auto Sector Land Revitalization

Info on this sector-based initiative available at

http://www.epa.gov/brownfields/policy/initiatives_sb.htm

Community Involvement

All environmental cleanups require a site-specific community relations plan (CRP). EPA has published a Community Involvement Toolkit that covers how to develop a CRP that gives the public an opportunity for meaningful input regarding site cleanup and future site land use. The Community Involvement Toolkit is available at:

<http://www.epa.gov/superfund/community/toolkit.htm>

EPA has published a guidance on Community Involvement and ICs because community knowledge and input is important to assure that the community knows where the ICs are, that the ICs remain in place, and that the IC not be breached by land use that is inconsistent with IC restrictions. The Community Involvement IC guidance, Institutional Controls: A

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Citizen's Guide to Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups at:

http://www.epa.gov/fedfac/pdf/ic_ctzns_guide.pdf

Community Visioning and Understanding Future Land Use

Community Visioning is a part of the Community Involvement process; it allows the community to envision the type of redevelopment or reuse that they agree upon for the site. A guide for how to conduct community visioning is at:

<http://www.epa.gov/superfund/community/pdfs/9comvis.pdf>

Brownfields projects must clean up sites in accordance with community redevelopment goals. Such goals may include cost-effectiveness, timeliness, and avoidance of adverse effects on structures on the site and on neighboring communities, as well as redevelopment of the land in a way that benefits communities and local economies. For more information on community redevelopment goals, see the Road Map to Understanding Innovative Technology Options for Brownfields Investigation and Cleanup at: <http://www.clu-in.org/s.focus/c/pub/i/1197/>

Conducting Environmental Cleanup

To direct attention to the mechanisms and needs required for effective remediation, the Association for State and Territorial Solid Waste Management Officials (ASTSWMO) published a Survey of State Brownfields Programs and the Compendium of State/Territorial Brownfields Program Funding Activities, which details how States and Territories use funding from EPA for Brownfields programs. The Compendium is available to the public from ASTSWMO at: http://www.astswmo.org/publications_cercla_archives.htm. Other recent documents are listed under: http://www.astswmo.org/publications_cercla.htm

EPA recommends that decision makers at brownfields sites acquire technical and legal assistance to fully understand the complexities of cleaning up a contaminated site. Depending on the complexity of a particular site, decision makers may request the assistance of environmental consultants, cleanup contractors, technology vendors, or staff of analytical laboratories in performing the many activities required to clean up sites. Some states may require the participation of certified or licensed professionals to help guide the cleanup process. To obtain services a request for proposals (RFP) is often used as the procurement mechanism. Selection criteria outlined in the RFP should include credentials and demonstrated experience of the individuals or firm in developing valid options for using streamlined strategies and innovative technologies at brownfields sites and successfully implementing the selected option. For more information on selection criteria and evaluating proposals see EPA's Brownfields Technology Primer: Requesting and Evaluating Proposals that Encourage Innovative Technologies for Investigation and Cleanup. The Primer is available at: <http://www.brownfieldstsc.org/pdfs/rfpfinal.pdf>

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Meeting All Applicable Federal and State Laws

Brownfields must comply with either all applicable General Industry standards (29 CFR 1910) or all applicable Construction standards (29 CFR 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. Specific standards for construction and general industries, as well as references related to Occupational Safety and Health Administration (OSHA) enforcement policy such as preambles, directives, and interpretation letters are available at:

<http://www.epa.gov/brownfields/publications/index.htm>

Brownfields cleanups must comply with all applicable federal or state laws. Superfund cleanups must comply with all applicable or relevant and appropriate federal and state requirements (ARARs). For more information about compliance with ARARs and the difference between applicable requirements and relevant and appropriate requirements, see:

<http://www.epa.gov/superfund/contacts/sfhotline/arar.pdf>.

Mine-Scarred Land

Info on this sector-based initiative available at

http://www.epa.gov/brownfields/policy/initiatives_sb.htm

Revitalizing Contaminated Sites

The sustainable reuse of previously contaminated property is an important goal of EPA’s hazardous waste cleanup programs. EPA’s Enforcement Office encourages the cleanup and revitalization of contaminated properties by clarifying Superfund liability concerns and implementing the landowner liability protections.

<http://www.epa.gov/compliance/cleanup/revitalization/index.html>

Selecting Environmental Cleanup Technologies (Institutional Controls and Remedy Selection)

EPA has developed SMARTe, a decision support tool that will allow different reuse alternatives to be evaluated and compared. The tool is available at:

<http://www.smarte.org/smarte/home/index.xml>

On September 1, the EPA Technology Innovation Office announced the release of the Remediation Technology Cost Compendium – Year 2000 (EPA 542-R-01-009). This new report provides a summary and analysis of historical cost information for six commonly-applied remediation technologies to clean up contaminated soil and groundwater.

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EPA has published guidance on Community Involvement and ICs because community knowledge and input is important to assure that the community knows where the ICs are, that the ICs remain in place, and that the IC not be breached by land use that is inconsistent with IC restrictions. The Community Involvement IC guidance, Institutional Controls: A Citizen's Guide to Superfund, Brownfields, Federal Facilities, Underground Storage Tank, and Resource Conservation and Recovery Act Cleanups at:

http://www.epa.gov/fedfac/pdf/ic_ctzns_guide.pdf

EPA prepared a Road Map to Understanding Innovative Technology Options for Brownfields Investigation and Cleanup, Fourth Edition (EPA 542-B-05-001) which describes the steps involved in the characterization and cleanup of brownfields sites and connects those steps with available resources.

Health Issues

The Department of Health and Human Services (HHS), in collaboration with the National Association of County and City Health Officials (NACCHO) developed a set of guidelines, "Community Revitalization and Public Health: Issues, Roles, and Relationships for Local Public Health Agencies," to discuss how to address health issues at brownfields sites. The document includes lessons learned, and evaluates successful actions that can be taken by the local health department of brownfields communities. A published handbook is available at:

<http://www.naccho.org/publications/>

Mill Revitalization

Info on this sector-based initiative available at

http://www.epa.gov/brownfields/policy/initiatives_sb.htm

Ports

National Oceanic and Atmospheric Administration (NOAA) created a Portfields website to provide periodic progress reports on specific projects in each of the pilots, available at http://www.epa.gov/brownfields/policy/initiatives_sb.htm

Railfields

Info on this sector-based initiative available at

http://www.epa.gov/brownfields/policy/initiatives_sb.htm

RCRA Brownfields Prevention

Info on this sector-based initiative available at

http://www.epa.gov/brownfields/policy/initiatives_sb.htm

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Streams

The United States Department of Agriculture (USDA), in collaboration with 15 Federal agencies, has published an extensive document, Steam Corridor Restoration: Principles, Processes, and Practices. It can be accessed at http://www.nrcs.usda.gov/technical/stream_restoration/.

USTfields – Petroleum Revitalization

Info on this sector-based initiative available at http://www.epa.gov/brownfields/policy/initiatives_sb.htm

Vapor Intrusion

EPA has published a fact sheet on Soil Vapor Intrusion. It is available at: http://www.epa.gov/brownfields/facts/vapor_intrusion.pdf

Worker Training

HHS worked with National Institute of Environmental Health Sciences (NIEHS) to provide the Brownfields Minority Worker Training Program. Training provided through the program consists of a combination of hazardous waste cleanup and construction/ apprenticeship training, which promotes employment during both the cleanup and reuse phases of brownfields redevelopment. The NIEHS Worker Training Programs can be found at <http://www.niehs.nih.gov/wetp/home.htm>.

Technical Help

EPA developed the Directory of Technical Assistance for Land Revitalization, which is available on-line <http://www.epa.gov/brownfields/tools/index.htm> and in hard copy (EPA docket number 542-B03-001). EPA has published a comprehensive Web page with links to many different realms of technical assistance.

The Trust for Public Land (TPL) distributes much of its brownfields information to interested parties through its website at: www.tpl.org/tier3_cdl.cfm?content_item_id=1344&folder_id=945. TPL also has completed a report on the benefits of greenspace, such as parks. The report, Parks for People, is available on TPL's web site at: http://www.tpl.org/tier2_pa.cfm?folder_id=705.