

AGENCY: ENVIRONMENTAL PROTECTION AGENCY (EPA)

TITLE: TECHNICAL ASSISTANCE TO BROWNFIELDS COMMUNITIES (TAB)

ACTION: Request for Proposals (RFP) – Frequently Asked Questions

RFA NO: EPA-OSWER-OBLR-16-02

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NOS.: 66.814

SUMMARY: The following are frequently asked questions related to the subject solicitation.

1. What is the closing date of the Technical Assistance to Brownfields Communities solicitation?

The closing date and time for receipt of proposals is December 21, 2015 at 11:59 pm EST.

2. What is the total maximum award amount?

The maximum award for each cooperative agreement is \$1,000,000.

3. Can an applicant submit proposals for multiple geographic areas?

Yes. Applicants may submit proposals to provide technical assistance in multiple geographic areas. Applicants wishing to provide technical assistance in multiple geographical areas should submit a **separate** proposal for each geographic area they plan to serve. It is very important that applicants provide a separate proposal since proposals will be ranked by geographic area, and the highest ranked proposal in combination with the Other Factors outlined in the solicitation will be used to determine the proposals recommended for selection. Applicants who do not submit a separate proposal when applying for grants in multiple geographic areas will fail threshold criteria #2 and their proposal will not be considered.

4. Would an entity that is currently performing brownfields assessments for a community be eligible to apply for a Technical Assistance to Brownfields Communities grant?

It depends. The fact that an entity is currently performing a brownfields assessment for a community does not automatically mean the entity is eligible to apply for this funding opportunity. Entities eligible to apply for the Technical Assistance to Brownfields (TAB) Communities funding opportunity include the following: states, general purpose local unit of government; land clearance authority or other quasi-governmental entity that operates under the supervision and control of, or as an agent of, general purpose unit of government; governmental entity created by a state legislature; regional council or group of general purpose units of local government; redevelopment agency that is chartered or otherwise sanctioned by a state; Indian tribe other than in Alaska; Alaskan Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S. C. 1601 and following); and the Metlakatla Indian Community; and nonprofit organizations (including institutions of higher education). Some of these entities may also be performing brownfields assessment activities. For profit consulting or engineering firms that have a contract with a community to perform site assessments, as well as other individuals not included in the

above list are not eligible to receive grants under this solicitation.

5. What non-profit organizations are eligible to apply for Technical Assistance to Brownfield Communities (TAB) grants?

For this solicitation, EPA uses 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, 31§ USC 6101. This law defines non-profit organizations to mean any corporation, trust, association, cooperative, or other organization that:

- is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- is not organized primarily for profit; and
- uses net proceeds to maintain, improve, or expand the operations of the organization.

EPA will accept documentation from the U.S. Internal Revenue Service (e.g., 501(c)(3) tax exempt status) or from a State or tribal government that has authority under its laws to grant non-profit status to an organization.

Non-profit organizations, with the exception of organizations subject to section 501(c)(4) of the Internal Revenue Code that lobby, are eligible to receive TAB grants including registered 501(c)(6) organizations.

6. Would it be acceptable to EPA for an applicant to work with another agency or organization as partners?

It depends. EPA awards funds to one eligible applicant as the “recipient” even if other eligible applicants are named as ‘partners,’ ‘co-applicants,’ members of a ‘coalition,’ or ‘consortium.’ The recipient is accountable to EPA for the proper expenditure of funds. Generally, applicants may work with another agency or organization as a partner. If cooperative agreement funding is to be used to provide a subaward to the partner organization, the recipient must comply with applicable requirements for subawards including those contained in 2 CFR Part 200. The terms of the solicitation reference the rules that must be followed in these instances in Section 4E.

7. Does the applicant have to be available to provide technical assistance to all communities within the geographical area?

Yes. Applicants must provide technical assistance coverage to communities throughout the entire geographic area.

8. Can applicants provide technical assistance beyond the six subject areas?

Yes. Proposals must include technical assistance in each of the six general subject areas described. Applicants may also propose additional technical assistance beyond the six areas EPA has described.

9. What type of leverage funds is EPA looking for in this solicitation?

EPA is looking for leveraged funding that will complement activities related to the project(s) and technical assistance proposed by the applicant. This includes, but is not limited to, funds and other resources leveraged from other Federal agencies, foundations, non-profits, surrounding communities, local universities and colleges, or local businesses. Leveraged funding may include

such things as funding to provide additional technical assistance to communities that beyond the TAB program; utilizing/combining the technical assistance provided through the TAB program with that provided by other programs in order to provide a more robust comprehensive technical assistance program for communities; or use of another organization's facilities, outreach network, or services when providing technical assistance workshops, design charrettes, or other technical assistance forums.

10. What grant activities cannot be paid for with TAB grant funds?

Grant funds may not be used for the payment of:

- a penalty or fine;
- a federal cost-share requirement (for example, a cost share required by other federal funds);
- an administrative cost (see FAQ below);
- a response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under CERCLA §107;
- a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup in the case of cleanup grants; or
- unallowable costs (e.g., lobbying and fund raising) under 2 CFR Part 200.

11. What is the Administrative Cost Prohibition?

The Brownfields Law prohibits the use of any "part of a grant or loan" for the payment of an administrative cost. In implementing this prohibition, EPA has made a distinction between prohibited administrative costs and eligible programmatic costs.

Administrative Costs. Prohibited administrative costs are direct costs, including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards contained in 2 CFR 200 and 2 CFR Subpart E. Direct costs for grant administration that fall within these areas are ineligible even if the grantee or subgrantee is required to carry out the activity under the grant agreement. Prohibited administrative costs also include indirect costs the recipient incurs under the OMB Cost Principles found at 2 CFR Parts Subpart E of the Federal Acquisition Regulation. Please note that prohibited administrative costs also include the cost to prepare the applicant's proposal.

Management Fees. Management fees are also an unallowable cost. Recipients must not include management fees or similar charges in excess of the direct costs in budgets for Brownfields grants. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs that are not allowable under Brownfields grants as administrative costs.

Programmatic Costs. EPA has determined that the administrative cost prohibition does not apply to "programmatic" costs, i.e., costs for activities that are integral to achieving the purpose of the grant, even if EPA considered the costs to be "administrative" under the prior Brownfields program. These costs are programmatic, not administrative. Direct costs for the following programmatic activities are not subject to the administrative cost prohibition:

- Eligible programmatic costs can include expenses for providing brownfield technical assistance to communities including necessary salary, travel, training, equipment, supplies, reference materials, subawards, and contractual support if those costs are reasonable and allocable to tasks specified in a grantee's approved scope of work for carrying out the activities described in the solicitation.
- Costs incurred for procurement of contractors necessary to provide brownfield technical assistance to communities. Costs for complying with the procurement standards of 2 CFR 200.317 through 200.326 are considered eligible programmatic costs only if the procurement contract is for services or products that are direct costs for performing activities specified in the solicitation or for performance and financial reporting required under 2 CFR 200.328, and 2 CFR 200.328 are eligible programmatic costs. Performance and financial reporting are essential programmatic tools for both the recipient and EPA to ensure that grants are carried out in accordance with statutory and regulatory requirements.

12. If I am a successful applicant, will EPA reimburse me for the costs of paying a consultant to prepare my grant application?

No. Proposal preparation costs of the applicant are prohibited administrative costs.

13. If my application is successful, will EPA reimburse me for eligible programmatic costs I incurred prior to the award?

It depends. EPA may reimburse successful applicants for pre-award costs incurred up to 90 days prior to award, even if the applicant did not request prior approval to incur pre-award costs provided the costs are eligible, allowable, and included in the approved budget and work plan for the grant. For example, costs for contracts are allowable only if the contract was entered into in a manner that complies with the competitive procurement provisions of EPA's grant regulations. Costs incurred more than 90 days prior to award require specific approval of an EPA award official.

Please note that applicants incur pre-award at their own risk and that EPA is not obligated to reimburse applicants for pre-award costs that are not included in the workplan and budget the Agency approves. EPA has no obligation to reimburse unsuccessful applicants for pre-award costs.

14. Can the Technical Assistance to Brownfield Community grant reimburse the indirect costs of a contractor?

Yes. The administrative cost prohibition applies only to the grant recipient's and subgrantee's indirect costs and not to the costs the grantee incurs under a contract for eligible programmatic costs. A grantee would be able to use grant funds to reimburse a contractor for his indirect costs if the contractor is performing programmatic activities, and the costs were reasonable and allocable to the task being performed. The EPA guidelines provide that eligible programmatic costs are expenditures for activities that are integral to achieving the purpose of the grant. A contractor's indirect costs that are otherwise reasonable (e.g. are covered by an indirect cost rate agreement with its cognizant federal audit agency) and normally charged to cost reimbursement contracts are programmatic rather than administrative.

15. Can a grantee or subgrantee who directly charges the amount of their building lease be reimbursed for those costs under the Technical Assistance to Brownfield Community grant or would the lease costs be considered an ineligible administrative cost? The building lease costs are not part of the negotiated overhead rate. They are charged as direct costs with no overhead costs applied.

Yes. If a grantee or subgrantee normally treats lease costs for space needed for specific grants as a direct cost of carrying out the grant, rather than a component of its indirect cost pool, and this is reflected in their indirect cost rate, then the EPA would consider these costs programmatic rather than administrative.