

Brownfields and Superfund Funding Vehicles for Tribes



Topics

- Brownfields Funding Opportunities
- Superfund Subpart O Funding Opportunities
- Superfund Community Involvement Funding Opportunities

CERCLA

- Comprehensive Environmental Response, Compensation, and Liability Act
- Provided broad federal authority to respond directly to releases of hazardous substances that may endanger public health or the environment.
- Enacted December 11, 1980

CERCLA

- CERCLA and later amendments provided different ways for EPA to address contaminated land including:
 - Brownfields and Land Revitalization Program
 - Superfund Remedial Program
 - National Priorities List (NPL) – EPA’s list of the most contaminated sites addressed by Superfund

Cooperative Agreements

- Primary source of CERCLA funding to tribes
- Definition: A legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose in which substantial EPA involvement is anticipated during the performance of the project.

Brownfields Funding Opportunities

Brownfields Funding Opportunities State and Tribal Response Program

- What is it for?
 - To “establish and enhance” a response program
- Who is eligible?
 - Any federally recognized Indian tribe
 - States
- Is it a competition?
 - No, it’s a non-competitive application, but sharing it with 50 states, other tribes, and territories

Brownfields Funding Opportunities State and Tribal Response Program

- Primary Purpose: to “establish or enhance” a response program
 - States and Tribes define its “response program”
 - Allowable activities are broad and include:
Hiring staff, developing regulations, ordinances, plans, outreach, community involvement, training, etc.

Brownfields Funding Opportunities State and Tribal Response Program

- Eligible tribes willing to develop a response program that includes:
 - taking steps to meet the “four elements”
 - establish and maintain a “public record” by end of first year of funding to qualify for additional funding.
- Cooperative Agreement reporting requirements.
- No Cost Share requirement.

Response Program – The Four Key Elements

1. Timely survey and inventory of brownfields sites
2. Oversight and enforcement authorities or other mechanisms, and resources, that are adequate to ensure that a response action will protect human health and the environment, be completed in accordance with federal law; and that the tribe can take the necessary response activities, if needed

Response Program – The Four Key Elements (cont.)

3. Mechanisms and resources to provide meaningful opportunities for public participation, including access to documents, and a mechanism by which a person can request a site assessment and the tribal official can respond to the request
4. Mechanisms for approval of cleanup plans & cleanups are complete.
and the Public Record

Brownfields Funding Opportunities State and Tribal Response Program

- To continue to receive funding, the tribe must establish and maintain a “public record” which is a record of sites at which...
 - response actions have been completed in the previous year and are planned to be addressed by the tribal program in the upcoming year
 - And that identifies whether or not the site, on completion of the response action, will be suitable for unrestricted use and, if not, identifies the institutional controls relied on in the remedy.

Brownfields Funding Opportunities State and Tribal Response Program

- Types of sites are eligible for Brownfields Funding
 - Site must meet the statutory definition of a brownfield
 - A brownfield site is a site that its redevelopment/reuse options which may be complicated by the presence or potential presence of contamination
 - NPL sites or sites proposed for listing are NOT brownfield sites



Brownfields Competitive Grants

- Assessment Grants
- Cleanup Grants
- Multipurpose Grants
- Environmental Workforce Development and Job Training Grants

Brownfields Assessments

Grant and technical assistance support for sites with known or potential contamination:

- **Inventory:** Compile a list of brownfields
- **Characterization:** Identify past uses
- **Assessment:** Determine existing contamination
- **Area-Wide ,Site-specific Cleanup and Redevelopment Planning:** Scope and plan process for site assessment, cleanup and reuse
- **Community Involvement:** Inform and engage stakeholders
- **Multipurpose:** inventory, characterize, and assess brownfield sites



Brownfields Cleanup

Grants provide funding to carry out cleanup activities at one or more brownfield site(s):

- **Cleanup Grants** : cleanup planning and contaminant abatement at one or more sites owned by the recipient.
- **Revolving Loan Fund (RLF) Grants:** capitalize a RLF program to provide loans and subgrants for cleanups.
- **Multipurpose Grants:** cleanup activities on brownfield sites, developing site reuse plans, and/or an overall plan for revitalization



Environmental Workforce Development & Job Training (EWDJT)

Grants provide funding to recruit, train, and place unemployed and under-employed residents of communities affected by solid and hazardous waste.

Support training in programs across EPA: solid waste, Superfund, brownfields, emergency response, waste and stormwater, chemical safety, etc.



EWDJT Program participants in personal protective equipment for a HAZWOPER training exercise

Other Resources to Support Tribes Addressing Brownfields

- Kansas State University – currently has a cooperative agreement to provide technical assistance to tribes related to brownfields
- Targeted Brownfields Assessments – EPA’s contractors will perform an assessment on behalf of a community
- New Small Technical Assistance Grants – must be current CERCLA 128(a) recipient and max \$20,000 for a discrete technical assistance project

Brownfields Regional Contacts

Region	Tribal Coordinator	Email
1	AmyJean McKeown	McKeown.AmyJean@epa.gov
2	Phillip Clappin	Clappin.Phillip@epa.gov
3	Mike Taurino	Taurino.Michael@epa.gov
4	Cindy Nolan	Nolan.CindyJ@epa.gov
5	Rosita Clarke	Clarke.Rosita@epa.gov
6	Ana Esquivel	Esquivel.Ana@epa.gov
7	Jennifer Morris	Morris.Jennifer@epa.gov
8	Melisa Devincenzi	Devincenzi.Melisa@epa.gov
9	Jose Garcia	Garcia.Jose@epa.gov
10	Mary Goolie	Goolie.Mary@epa.gov

How do Brownfields and Superfund funding relate?

Brownfields and Superfund

- Sites on or proposed to the National Priorities List (NPL) are NOT eligible for brownfields grant funding.
- Once a site is deleted from the NPL, it may be eligible for brownfields funding.

Superfund Subpart O Funding Opportunities

Superfund Cooperative Agreements

- Cooperative Agreements (CA) opportunities are identified in CERCLA Subpart O (40 CFR Part 35, Subpart O)

Tribal Eligibility

- To be eligible, tribes must:
 - Be a federally recognized tribe
 - Meet criteria set forth in 40 CFR 300.515(b) of the NCP
- An Intertribal Consortium may also be eligible

Tribal Eligibility (con't)

- 300.515(b) Requirements
 - Federally recognized
 - Tribal governing body actively promoting health, safety, welfare of the affected population or protect the environment within a defined geographic area
 - Have jurisdiction over a site at which a fund-financed response is contemplated
 - Exception for Core Program CAs

Types of Superfund CAs Available

- Pre-Remedial Response CA
- Remedial Response CA
- Enforcement CA
- Removal Response CA
- Core Program CA
- Support Agency CA



New FY19 Tribal CA Summary

- Total of \$12,354,389 Awarded for approximately 60 CAs
- Superfund Tribal CAs in FY 2019:
 - PA/SI CAs – less than 1% of funding
 - Remedial Action CAs – 72% of funding
 - Core CAs – 1.7% of funding
 - Support Agency CAs – 22% of funding (42 CAs)

CA Common Elements

- Application for Federal Assistance (SF-424)
 - Budget Sheets
 - Project Narrative Statement
 - Site Description
 - Statement of Work
 - Identify Lead Site Project Manager
 - Site-Specific Community Relations Plan
 - Site-Specific Health and Safety Plan
 - Quality Assurance
 - Schedule of Deliverables
 - Other applicable forms and information

Pre-Remedial Response CA

- Eligibility
 - States, political subdivisions, Indian Tribes
- Eligible Activities
 - Preliminary Assessment
 - Site Inspection
 - Hazard Ranking System

Remedial Response CA

- Eligibility
 - State, political subdivisions, Indian Tribes
- Eligible Activities
 - Remedial investigations
 - Feasibility studies
 - Remedial design
 - Remedial actions
 - Oversee PRP cleanups



Enforcement CA

- Eligibility
 - State or Tribe must demonstrate that it has the authority, jurisdiction, and the necessary administrative capabilities to take an enforcement action(s) to compel PRP cleanup of the site or recovery of cleanup costs
- Submit
 - Letter from Indian Tribal Official certifying authority, jurisdiction and administrative capabilities
 - Copy of applicable Indian Tribal Statute(s) and description of how it is implemented
 - Any other documentation required by EPA

Enforcement CA (con't)

- Eligible Activities
 - Identify Potentially Responsible Parties (PRPs)
 - Conduct settlement negotiations
 - Take enforcement actions against PRPs



Removal Response CA

- Eligibility
 - States, political subdivisions, Indian Tribes
 - Planning period of more than six months
- Eligible Activities
 - When based on the site evaluation, EPA determines that a planning period of more than six months before removal activities must begin
 - Non-Time Critical Removal Actions

Core Program CA

- Definition: A CA that provides funds to a State or Indian Tribe to conduct CERCLA implementation activities that are not assignable to specific sites but are intended to develop and maintain a State's or Indian Tribe's ability to participate in the CERCLA response program.

Core Program CA (con't)

- Eligibility
 - Meet the definition above
 - Only the State or Indian Tribal government agency designated as the single point of contact with EPA for CERCLA implementation is eligible to receive a Core Program CA

Core Program CA (con't)

- Eligible Activities
 - Procedures for emergency response actions and longer-term remediation of environmental and health risks at hazardous waste sites
 - Provisions for satisfying all requirements and assurances
 - Development of legal authorities and enforcement support
 - Hire and train staff
 - Maintain sustained EPA/recipient interaction in CERCLA implementation

Support Agency CA

- **Support Agency Definition:** The agency that furnishes necessary data to the lead agency, reviews response data and documents, and provides other assistance to the lead agency.

Support Agency CA (con't)

- Eligibility
 - States, political subdivisions, Indian Tribes
 - To ensure meaningful and substantial involvement in response activities, as specified in sections 104 and 121(f)(1) of CERCLA and the NCP (40 CFR part 300)

Support Agency CA (con't)

- Allowable Activities
 - CERCLA 121(f)(1)
 - NCP (40 CFR Part 300) Subpart F
 - Participation in five-year reviews

Support Agency CA (con't)

- Allowable activities:
 - Review of and comment on documents related to:
 - PA/SI
 - NPL listing process
 - RI/FS
 - ARAR waivers
 - Remedy selection
 - Engineering design
 - Planned remedial action
 - Technical data and reports
 - Site deletion
 - Removal actions
 - Participation in
 - Long-term planning process
 - PRP negotiations
 - Five year review process

Superfund Tribal Coordinators

Region	Tribal Coordinator	Email
1	Karen Lumino	Lumino.karen@epa.gov
2	Pam Tames	Tames.pam@epa.gov
3	Lisa Denmark	Denmark.lisa@epa.gov
4	Karen Buerki	Buerki.karen@epa.gov
5	Ashley Fisseha	Fisseha.ashley@epa.gov
6	LaDonna Turner	Turner.ladonna@epa.gov
7	John Frey	Frey.john@epa.gov
8	Steve Wharton	Wharton.steve@epa.gov
9	Damian Willson	Willson.damian@epa.gov
10	Jennifer Johnson	Johnson.jenniferS@epa.gov

Superfund Community
Involvement
Technical Assistance
Opportunities

Technical Assistance Grant (TAG) Program

EPA grant funds for independent technical advisor(s) to interpret Superfund site technical information.

- Must be NPL or sites proposed with a response action
- Group must be eligible
- Initial grant up to \$50,000
- All/most of funds to procure a technical advisor(s)

Technical Assistance Services for Communities (TASC) Program

EPA contract providing independent technical information services to help communities understand technical information and participate in decision-making.

- No cost to communities.
- Services only – document review, workshops, training, informational materials, facilitation
- Broad eligibility

TAG vs. TASC

	TAGs	TASC
Superfund Site Status	NPL or proposed with response action	All (remedial and removal)
Types of Assistance	Focus on technical advising	Technical advising, basic facilitation (agenda mgmt.), preparation of educational materials
Duration	Throughout the Superfund process	Short and longer projects within contract period
Eligibility	Non-profit incorporated community group	Any community-based group; projects serve entire community; tribes; local governments
Contribution	20 percent match by community group	None
Advisor Selection	Community hires advisor	TASC selects appropriate advisor
Implementation Time	Application process takes some time (months)	Shorter turnaround (weeks)
Administration	Community responsible for management	EPA managed

Questions?

