

How to Manage an EPA-Funded Brownfield Cleanup

R5 Tribal Brownfields Workshop
Tuesday, May 5, 1:15pm ET



Overview

1. Terms and Conditions
2. Typical Order of Events
3. Eligibility Determinations
4. Community Involvement
5. Federal Cross-Cutting Requirements
6. ACRES and Quarterly Reporting



EPA Cleanup Funding Sources

- 128(a) Funds
 - Allowable under TRP, but not required
 - Cannot exceed 75% of your total funding received from both your AA and IJA funds (waiver available)
 - Eligibility needs to be approved by PO before you begin
 - Do not have to own property
- 104(k) MARC Grant
 - Eligibility determined during application process
 - One proposal per applicant, but can include more than one site within a proposal
 - Must own property
 - 20% match required – entities with a pop. <50,000 may request a cost-share waiver



1. Terms and Conditions

What are the rules?



Terms and Conditions for 104(k) Cleanup Grant

- Key Items:

- I.A.4-7 and V.A.2 - Federal Cross Cutters (e.g. NHPA and ESA)
- IV.B. - Eligible costs
- IV.C. - Ineligible costs



Terms and Conditions – Eligible Costs

- Cleanup activities
- Ensuring compliance with applicable state and federal laws, including federal cross-cutters
- Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA)
- Using up to \$50,000 to conduct unforeseen environmental site assessment activities*
- Developing a Quality Assurance Project Plan
- Performing limited site characterization to confirm the effectiveness of the proposed cleanup design
- Ensuring public participation requirements are met (e.g. preparing a Community Involvement Plan)
- Establishing an Administrative Record
- Other eligible programmatic costs (e.g. reporting, procurement)
- Post-cleanup confirmation sampling
- Up to 5% of funds can be used for administrative costs



Terms and Conditions – Ineligible Costs

- Paying for responses at sites for which the grantee or subaward recipient is potentially liable
- Paying for responses at ineligible sites
- Pre-cleanup Phase I and Phase II environmental site activities
- Construction, demolition, and post-cleanup site development activities that are not cleanup actions (e.g., marketing of property, construction of a new facility)
- Penalties or fines

2. Typical Order of Events

Where do I start?

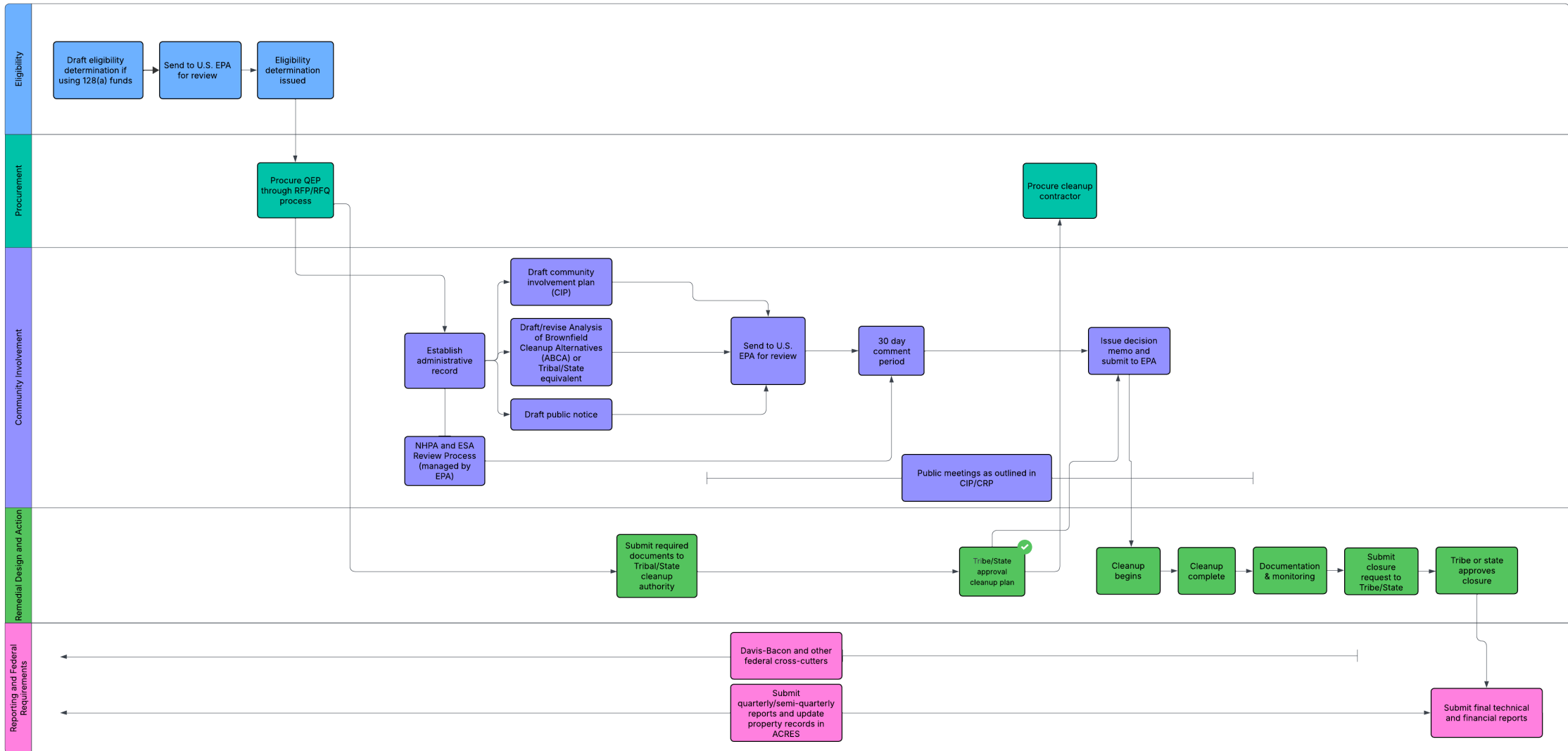


Typical Order of Events

1. Determine site eligibility + submit to USEPA for acceptance/rejection if using 128(a) funds
2. Go out to bid for Qualified Environmental Professional (RFP/RFQ)
3. EPA begins Section 106 review (with SHPO and THPO)
4. Establish administrative record
5. Draft Community Involvement Plan (CIP) / Community Relations Plan (CRP) submitted to EPA
6. Analysis of Brownfield Cleanup Alternatives (ABCA) or Tribal/state equivalent submitted to EPA
7. Draft cleanup plan submitted to appropriate cleanup authority (Tribe or State)
8. Publish notice for public comment period (usually 30 days concurrent for cleanup plan, administrative record, and NHPA)
9. Issue decision memo
10. Procure cleanup contractor
11. Perform cleanup
12. Conduct confirmation sampling
13. Solicit NFR letter from Tribe/State
14. Enter data into ACRES quarterly



Typical Order of Events



Typical Order of Events Checklist

Cleanup Checklist Template	
Site Eligibility Determination (ED) Submitted to EPA	5/4/2026
Site ED Approved by EPA	
Check in with SHPO/THPO	
CIP Submitted to EPA	
CIP Accepted by EPA	
ABCA Submitted to EPA	
ABCA Approved by EPA	
Prepare QAPP if necessary	
Cleanup Plan approved by Tribal Environmental Authority or State	
Establish Administrative Record	
Complete Section 106 of NHPA	
Publish notice for public comment period	
Public Hearing	
Public Comment Period	
Issue Action Memo/Decision Document	
Perform Cleanup	
Conduct Confirmation Sampling (if necessary)	
NFR Letter from Tribal Environmental Authority or State	

3. Eligibility Determinations

Can grant funds be spent at this site?



Site Eligibility Determinations

- Eligibility determination process takes place during competition for cleanup grants awarded under 104(k)
- For cleanups funded under 128(a), submit an eligibility determination to your EPA project officer
 - Hazardous substance contamination: Tribe makes determination, EPA concurs
 - Petroleum contamination: Tribe submits form with required information, EPA makes determination



4. Community Involvement: Administrative Record, ABCA, CIP

What community involvement is required?



Community Involvement

- Grantees should strive to conduct early, frequent, and meaningful community involvement and keep the public well-informed about the brownfields cleanup process.
- Community involvement activities are initiated prior to the cleanup of a site and continue throughout each step of the environmental cleanup process.
- The cleanup plan may need to be modified based on community needs and/or comments.
- T&Cs require that grantees create a public repository of all relevant documents to the cleanup. This is the **administrative record**.
- Public notice with solicitation for comments is required.



Administrative Record

- Should be updated regularly as documents become available.
- Should include:
 - Site eligibility documents
 - Community Involvement Plan (see slide 17)
 - Analysis of Brownfield Cleanup Alternatives, or equivalent (see slide 18-19)
 - Phase I and II Environmental Site Assessments
 - Cleanup Plan, Remedial Action Plan required by the Tribe or state
 - Other technical or engineering documents
 - Documents related to NHPA and/or ESA (see slides 22-24)
 - Decision Document (see slide 20)
 - Cleanup completion documents
- Grantee needs to publicize where the administrative record is available for review. For example:
 - Linked documents online, and/or
 - Physical copies at a library/school/Tribal offices
- Under 2 CFR 200.334 - must be retained for 3 years after final expenditure report for the grant.



Community Involvement Plan (CIP)

- For **involving** and **informing** the community
- Required in T&Cs
- Describe your strategy to address concerns and needs of residents who may be impacted by the proposed cleanup and redevelopment
- Typically includes:
 - Overview
 - Grantee contact info
 - Location, contents of administrative record
 - Site description; location, history, background
 - Nature of threat to public health and the environment
 - Proposed remediation
 - Key community concerns
 - Chronology of community involvement to date
 - Continued community involvement activities



Analysis of Brownfield Cleanup Alternatives (ABCA)

- Required document for EPA-funded cleanups (or state or Tribal equivalent)
- To ensure the appropriate cleanup strategy is chosen
- EPA PO reviews ABCA before finalizing
- 30-day public comment period before Decision Document
 - Final decision document must address comments received during public comment period



Analysis of Brownfield Cleanup Alternatives (ABCA)

- Typically includes:
 - Introduction and site background
 - Applicable regulations and cleanup standards - cleanup oversight, cleanup standards for major contaminants, applicable laws and regulations
 - Evaluation of cleanup alternatives – discussion of alternate cleanup methods; cost, effectiveness, and implementability of each alternative.
 - No Action + two (or more) cleanup alternatives
 - Includes resilience to extreme weather events
 - Include ECs and ICs (if applicable)
 - Media can be addressed separately
 - Recommended cleanup alternative – Grantee describes the recommended cleanup approach based on the analysis.



Decision Document

- Drafted after public comment period concludes
- Identifies the final cleanup action for the site
- Must address all relevant comments received during public comment period
- Once approved by EPA, cleanup can begin



5. Federal Cross-Cutting Requirements

NHPA, ESA, BABA, Davis-Bacon, and more



Meeting All Applicable Federal and State Laws

- **Davis-Bacon Act (DBA)** - *not required under 128(a)*
- Endangered Species Act (ESA)
- Permits required by Section 404 of the Clean Water Act
- **National Historic Preservation Act (NHPA)**
- Disadvantaged Business Enterprises (DBE)
- OSHA Worker Health & Safety Standard
- Build America, Buy America Act (BABA)
- Other Federal Cross-cutters

Davis-Bacon Act (DBA)

- *Does not apply to cleanups funded with 128(a)*
- Prevailing wages as determined by Dept. of Labor must be incorporated into construction, alteration, and repair solicitations and contracts.
- [Davis Bacon Act Conformances from SAM.gov](#)
- [GSA Labor Standards Interview From](#)
- [DOL Prevailing Wage Seminar Recordings](#)
- [NJIT TAB Webinar Recording: What EPA Brownfields Grantees Should Know: Davis Bacon Act & BABA](#)
- [HUD-11: Record of Employee Interview](#)
- [Davis-Bacon Poster \(Government Construction\)](#)
- [WH-347: Davis-Bacon and Related Acts Weekly Certified Payroll Form](#)



National Historic Preservation Act (NHPA)

- EPA must consider the effect of grant-funded cleanup activities on historic properties; "triggered" by federal undertaking, not by the presence of historic properties
- EPA must consult with appropriate State/Tribal Historic Preservation Offices (SHPO/THPO). Grantees shall assist EPA using grant funds.
- Basic steps include:
 - 1) Initiate Review
 - 2) Determine if undertaking has the potential to cause an effect
 - 3) Determine if the property is historically or culturally significant
 - 4) Mitigate, if necessary



6. ACRES and Quarterly Reporting

How do I record my progress?



ACRES and Quarterly Reporting

- Assessment, Cleanup, and Redevelopment Exchange System (ACRES) is an online database for grantees to electronically submit data directly to EPA.
- Two key functions
 - Property Profile Form: Reporting activities, expenditures, and environmental data at specific sites
 - Quarterly Reports
- EPA Brownfields Program offers monthly ACRES training; see the [ACRES Training, Tips and Tools](#) webpage for schedules and recordings.
- ACRES Help Desk: **Phone:** 703-284-8212
E-mail: acres_help@epa.gov



ACRES and Quarterly Reporting

- Property Profile Form
 - Inputting site data (address, coordinates, name, size, etc.)
 - Activities conducted (Phase I, Phase II, cleanup planning, etc.) and associated costs and dates
 - RECs identified, media sampled, contaminants and level of contamination
 - Cleanup activities completed including any engineering and institutional controls

Environmental Cleanup Information	
DESCRIPTION	DATA FOR REVIEW
Activity Marked for Deletion:	No <input type="button" value="v"/>
Cleanup Activity Start Date:	03/01/2018
Cleanup Activity Completion Date:	09/14/2018
Were Cleanup/Treatment Technologies implemented?	Yes <input type="button" value="v"/>
If so, indicate the category(ies):	<input type="checkbox"/> Excavation and disposal of soil <input type="checkbox"/> Removal of materials (tanks and piping, etc.) <input type="checkbox"/> Cleanup of structures (removal/abatement of asbestos/lead, PCB caulk, other contaminated building materials, etc.) <input type="checkbox"/> Extraction of contaminants (soil vapor, free product, groundwater, etc.) <input type="checkbox"/> Reduction of contaminants through Bioremediation/Phytoremediation
Additional Cleanup/Treatment Technology(ies) Information:	Vapor mitigation system installed during construction of new health care facility. Contaminated soil excavated as part of grading, utility installation and footings/foundations was reused on-site and capped to prevent direct contact.
Address of Data Source:	
Acres Cleaned Up:	2.72
Number of Cleanup Jobs Leveraged:	0
Explanation/Justification for Cleanup Jobs Leveraged:	

ACRES and Quarterly Reporting

- Quarterly Reporting
 - Project Progress: Tasks per your approved workplan
 - Budget Summary: Initial approved budget, any approved budget changes, and quarterly expenditures
 - Property Specific Information: ACRES pulls data from your property profile forms
 - Overall CA Progress: Challenges, corrective actions needed, and changes needed.



Questions?

