



EPA Issues Guidelines and FAQ for Brownfields Cleanup Grants FY23 Competition Cycle

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On September 12, 2022, the United States Environmental Protection Agency (“EPA”) issued its long-awaited guidelines and FAQ for the Brownfields Cleanup Grant FY23 competition cycle. According to the new guidelines, an applicant may submit **one** cleanup grant application in the FY23 competition cycle requesting up to **\$2 million** for purposes of cleaning up a brownfield site or to allocate among multiple sites (the period of performance is up to **4 years**). EPA anticipates awarding an estimated total of 73 cleanup grants for an estimated total of \$60 million (i.e., 40 grants up to \$500,000; 25 grants between \$500,000-\$1 million; and 8 grants between \$1-2 million). The deadline for submitting an application is **November 22, 2022**.

Site Ownership

An applicant must be the **sole owner** of the site that is the subject of its cleanup grant application and must own the site by November 22, 2022, to be eligible to receive a cleanup grant. In the guidelines, EPA defines “own” to mean “fee simple title through a legal document (for example, a recorded deed); unless EPA approves a different ownership arrangement (for example, a nominee agreement or 99-year irrevocable lease).” See p. 3. EPA strongly encourages applicants to contact their regional brownfields contacts to ensure that the proposed site is eligible for funding prior to submitting an application.

Eligible Entities

Entities that are eligible to apply include: state, local, and tribal governments (except for Indian tribes in Alaska) and a range of government entities (i.e., general purpose units of local governments; land clearance authorities or other quasi-governmental entities operating under the supervision and control of, or as agents of local governments, governmental entities; redevelopment agencies created or sanctioned by a state; and regional councils of government); Alaska Native Regional Corporations and Alaska Native Village Corporations and the Metlakatla Indian community; 501(c)(3) nonprofits; limited liability companies in which all managing partners are 501(c)(3) nonprofits; limited partnerships in which all general partners are 501(c)(3) nonprofits or limited corporations whose sole members are 501(c)(3) nonprofits; and qualified 45D(c)(1) community development entities, among others.

Notably, EPA also allows “**other nonprofit organizations**” to apply for a cleanup grant. “Nonprofit organization” is defined in 2 C.F.R. § 200.1 to include “any corporation, trust, association, cooperative, or other organization (including institutions of higher education) that is operated mainly for scientific, educational, service, charitable, or similar purpose in the public interest and is not organized primarily for profit; and uses net proceeds to maintain, improve, or expand the operation of the organization even if the organization is not exempt from taxation under 501(c)(3).”

Phase II Environmental Site Assessment Report

Cleanup grant applicants must also have an ASTM E1903-19 Phase II environmental site assessment report or equivalent site investigation report completed, which indicates a basic understanding of what contaminants need to be cleaned up on the site.



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Both the guidelines and FAQ provide important additional information about eligibility criteria, application requirements, site ownership, proper uses of grant funds, and other topics specifically related to brownfields cleanup grants for the FY23 competition cycle. In addition to these resources, please note that EPA also issued guidelines for the following other types of brownfields grants: multipurpose grants, community-wide assessment grants, assessment coalition grants, community-wide assessment grants for states and tribes, and revolving loan fund grants.

For more information about brownfields grants, contact Thomas Bloomfield, Polly Jessen, Sara Mogharabi, or Timothy A. Roth.