

**AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

**ENVIRONMENTAL PROTECTION AGENCY RECOVERY ACT PROGRAM PLAN:  
BROWNFIELDS AND LAND REVITALIZATION  
MAY 15, 2009**

**Funding Table**

<b>EPA Program-Specific Recovery Act Plan</b>				
<b>Brownfields</b>				
<b>Treasury Symbol</b>	<b>Appropriations</b>	<b>Program</b>	<b>Sub-program</b>	<b>Total Appropriation</b>
689/00102	STAG - Recovery Act	INFRASTRUCTURE BROWNFIELDS	Recovery Act: Brownfields Projects	\$96,500,000
689/10108	EPM (M&O) -- Recovery Act	INFRASTRUCTURE BROWNFIELDS	Recovery Act: EPA (Headquarters & Regions)	\$3,500,000
<b>Total</b>				<b>\$100,000,000</b>

Note: \$1,750,000 (one half of the Management and Oversight funds) were not made immediately available for obligation but held in reserve for future years. Thus, the current total funds available for obligation in EPA's financial system is \$98,250,000.

**b. Objectives**

A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. It is estimated that there are more than 450,000 brownfields in the U.S. Passage of the Small Business Liability Relief and Brownfields Revitalization Act in 2002 expanded EPA's assistance to brownfields-impacted communities by providing new tools for the public and private sectors to promote sustainable brownfields cleanup and reuse. The EPA Brownfields Program has been instrumental in furthering the Agency's land revitalization goals. Specifically, Brownfields funds awarded to communities, states, tribes, and other stakeholders will facilitate the leveraging, creation and retention of jobs, and the leveraging of economic investment, while helping to prevent, assess, safely clean up, and sustainably reuse brownfields.

Under the American Recovery and Reinvestment Act, the EPA will award brownfields assessment, cleanup, new and supplemental Revolving Loan Fund (RLF) and job training cooperative agreements through a competitive process and will provide technical assistance and training to brownfields communities via regional contracts and Interagency Agreements (IA). Cooperative Agreements are a type of grant that indicates the EPA will be substantially involved in the project and will work closely with the recipient. The RLF is a type of cooperative agreement that provides funds for recipients to provide loans and subgrants to eligible entities to cleanup sites in their communities. A federal IA is a mechanism that allows one federal agency to partner with another federal agency, in this case the U.S. Army Corps of Engineers, to provide technical assistance to communities receiving brownfields funds. For more information on all the Brownfields cooperative agreement programs please visit the Program's description page here: <http://www.epa.gov/brownfields/pilot.htm>.

Brownfields cooperative agreements will support progress toward Goal 4 (Healthy Communities and Ecosystems), Objective 4.2 (Communities), and Sub-objective 4.2.3 (Assess and Clean Up Brownfields) of the 2006-2011 EPA Strategic Plan. EPA and Recovery Act fund recipients will work together to collect information about the expected outputs and outcomes of brownfields cooperative agreements. EPA anticipates assessing an additional 500-750 properties, making an additional 500-750 acres ready for reuse, and leveraging an additional \$450,000,000 - \$600,000,000 dollars by 2012.

### **c) Activities**

Activities to be performed under these cooperative agreements include, but are not limited to, (1) environmental assessment to identify the contaminants at brownfields sites and initiate cleanup planning; (2) direct cleanup of brownfield sites; (3) community involvement activities for site selection, cleanup and reuse planning; (4) training participants in the handling and removal of hazardous substances, including training for jobs in sampling, analysis, and site cleanup.

- Environmental Assessment – EPA will award cooperative agreements and, in some instances, provide funding directly through the Targeted Brownfields Assessment program, for Phase I<sup>1</sup> and Phase II<sup>2</sup> environmental assessments, community involvement activities and cleanup planning.
- Environmental Cleanup – EPA will award cooperative agreements for the cleanup of brownfields sites.
- Revolving Loan Funds for Environmental Cleanup – EPA will award cooperative agreements to capitalize existing, high-performing RLFs to make no-interest or low-interest loans and provide subgrants to carry out cleanup activities at brownfield sites.
- Job Training – EPA will award cooperative agreements to provide training in the environmental field to unemployed and underemployed residents in communities impacted by brownfields.

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<sup>1</sup> A Phase I environmental assessment is the first step when examining the environmental conditions at a site. A site-visit is performed where the site is evaluated for the likelihood of contamination. No soil samples or laboratory analysis is performed at this stage.

<sup>2</sup> A Phase II environmental assessment is the next step in determining the environmental condition of a site. Soil samples are taken and analyzed to determine the extent and level of contamination.

**d) Characteristics**

Type of Financial Award	Type of Recipient/Beneficiary	Estimated Dollar Amount (in millions)*	Methodology for Award Selection
66.818 (ARC) and 66.815 (job training) - Cooperative Agreements	Federally Recognized Indian Tribal Governments; Private Nonprofit Institution / Organization (Includes...) Public Nonprofit Institution / Organization (Includes...); Local; State; U.S. Territories and Possessions	\$87.4	Projects that are consistent with ARRA goals and that rank high on the statutory criteria outlined in the Brownfields Law will be selected for ARRA funding. (See below for more detail)
Contracts	Profit; Small Business	\$7.2	Projects that are consistent with Recovery Act goals will be selected for ARRA funding. (See below for more detail)
Interagency Agreements	U.S. Army Corps of Engineers - Federal	\$1.9	The Army Corps will provide regional technical assistance, training, and outreach support to requesting brownfields communities to ensure recipients' effective implementation of ARRA funds.
EPA Management & Oversight	In-house	\$3.5	EPA will use ARRA management and oversight set-aside funds to effectively manage and oversee the above brownfields activities.

\*Note: As required by the “Brownfields Law,” 25% of the \$100M shall be used to support petroleum activities. Estimates for assessment, cleanup, and supplemental RLF include the petroleum set-aside.

Recovery Act Assessment, Cleanup and RLF cooperative agreements will be awarded under an existing competition to those applicants that rank highest on Brownfields statutory criteria. The criteria are consistent with the Recovery Act goals; therefore, highly ranked proposals will demonstrate economic need, a commitment to environmental sustainability principles and project readiness. Recovery Act RLF supplemental cooperative agreements will be awarded to existing,

high-performing RLF recipients who can demonstrate imminent loans and sub-grants to clean up sites and a high likelihood of job creation. EPA will directly fund Targeted Brownfields Assessments (TBA) through existing Regional contracts and the National Service-Disabled Veteran Owned Small Business TBA Contract. Only those TBAs that can be started quickly and will likely create or retain jobs will be considered for ARRA funding. Recovery Act Job Training cooperative agreements will be awarded to those applicants that rank highest on the statutory criteria and also demonstrate an ability to place graduates in full-time, long-term, green-collar positions.

**e) Delivery Schedule**

<b>Activity</b>	<b>Projected Date</b>
Recovery Act Job Training Cooperative Agreement Guidelines posted to Grants.Gov, Recovery.Gov and EPA website	March 19, 2009
Recovery Act RLF Funding Request posted in Federal Register	April 10, 2009
Recovery Act Assessment, RLF and Cleanup cooperative agreement recipients announced	May 2009
Other Recovery Act Funding for Regional Support (TBA, US Army Corps of Engineers) sent to Regions	
Recovery Act Job Training cooperative agreement recipients announced	June 2009
Recovery Act Assessment, RLF, Cleanup and Job Training cooperative agreements awarded	August 31, 2009
EPA Monitors Recovery Act cooperative agreement recipients and reports progress, accomplishments	Ongoing FY09 – FY11 ( <i>or longer</i> )
EPA “Sufficient Progress” Review of Recovery Act cooperative agreement recipients	Summer 2010

**f) Environmental Review Compliance**

Community notification and on-going community engagement is a cornerstone of all successful Brownfields projects. The Program currently requires pre-application community notification for all cleanup cooperative agreement applicants. Additionally, all cleanup activities funded with cleanup or RLF cooperative agreements require a site-specific community relations plan that includes providing reasonable notice, opportunity for involvement, response to comments, and administrative records that are available to the public. The Program further requires community involvement activities once sites have been selected for environmental assessment activities. Because the Program already has a robust community involvement process, considered functionally equivalent to the National Environmental Policy Act (NEPA), EPA will continue to use this process for all Recovery Act cooperative agreement recipients.

Brownfields cooperative agreement recipients 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 the National Historic Preservation Act (NHPA) and Section 7(a)(2) of the Endangered Species Act (ESA) are met.

### **g) Measures**

The Brownfields Program has used and will continue to use the information collected from cooperative agreement recipients to oversee the activities carried out using brownfields funds, to evaluate program implementation and effectiveness, and to meet the Agency's responsibilities under the Government Performance and Results Act. The information collection activities are intended to: (1) continue to improve the alignment of reporting requirements with programmatic performance measures; and (2) simplify and standardize reporting requirements to reduce uncertainty and burden imposed on cooperative agreement recipients. The Brownfields program will follow established Agency processes for notifying the public of Recovery Act cooperative agreement recipient accomplishments. Recipients of assessment, cleanup, RLF, and job training cooperative agreements will submit Property Profile Form and/or Job Training Reporting Form data electronically using the EPA Assessment, Cleanup, and Redevelopment Exchange System (ACRES). The Program will provide a summary of these reports on a quarterly basis once the recipients begin entering accomplishment data.

Expected outputs include:

- the number of sites assessed and cleaned up;
- number of jobs leveraged as a result of assessment and cleanup activities and the redevelopment of the sites;
- number of job training participants placed in sustainable jobs; and
- the amount of additional funding leveraged.

Expected outcomes of brownfields cooperative agreements include:

- providing training that leads to sustainable employment in the environmental field;
- funding leveraged through the economic redevelopment and reuse of sites;
- the number of acres made ready for reuse; and
- minimization of the public's exposure to contaminants.

### **Definitions for Program Performance Measures:**

- **Properties Assessed** -- Number of properties that have been environmentally assessed for the first time using EPA Brownfields funding, as reported by cooperative agreement recipients.
- **Properties Cleaned up** – Number of properties that have been cleaned up to a regulatory risk based standard using EPA Brownfields funding, as reported by cooperative agreement recipients. This typically occurs when one of the following conditions applies:

1. A *clean or no further action* letter (or its equivalent) has been issued by the state or tribe under its voluntary response program (or its equivalent) for cleanup activities at the property; or
  2. The grant recipient or property owner, upon the recommendation of an environmental professional, has determined and documented that on-property work is finished. Ongoing operation and maintenance activities or monitoring may continue after a cleanup completion designation has been made.
- **Jobs Leveraged** - Number of cleanup and redevelopment jobs leveraged by assessment or cleanup activities conducted with EPA Brownfields funding, as reported by cooperative agreement recipients at a specific property. These are actual numbers reported by recipients that are based on jobs resulting from environmental work at the site or the redevelopment of the site.
  - **Dollars Leveraged** - Number of additional dollars leveraged by assessment or cleanup activities conducted with EPA Brownfields funding, as reported by cooperative agreement recipients at a specific property.
  - **Acres Made Ready for Reuse** – Acres associated with properties benefiting from EPA Brownfields funding that have been assessed and determined not to require cleanup, or where cleanup has been completed and institutional controls are in place if required, as reported by cooperative agreement recipients.

*The term leveraged refers to those non-EPA brownfields grant funds and activities that have some link or nexus to the efforts of an EPA grant-funded activity, or where the EPA grant-funded activity was a catalyst for the leveraged accomplishments.*

The Program will establish new measures to demonstrate interim recipient progress for the performance measures described above. For assessment, cleanup and RLF cooperative agreement recipients the interim measures include: number of assessments initiated, number of cleanups initiated, number of RLF loans or subgrants issued, and number of assessments completed using Recovery Act funds. For Job Training cooperative agreement recipients the measure to demonstrate progress is 60-65% participants trained will obtain employment. The Brownfields Program expects an increase in the number of properties assessed, properties cleaned up, acres ready for reuse, jobs leveraged, and dollars leveraged during the performance period of the Recovery Act cooperative agreements. The Program proposes that 500-750 properties will be assessed, 30-50 properties will be cleaned up, 500-750 acres will be made ready for reuse, and approximately \$450,000,000 - \$600,000,000 dollars will be leveraged from properties benefiting from ARRA funding. The Program anticipates that these accomplishments will be met in 2012, once all cooperative agreement periods of performance end.

As soon as cooperative agreement recipients begin reporting accomplishment data based on the performance measures above, EPA will make these reports available to the public on a quarterly basis.

## **h) Monitoring/Evaluation**

Each cooperative agreement is assigned an EPA regional Project Officer (PO) who has the responsibility to oversee every aspect of the recipient's work. All EPA POs must meet Agency requirements to serve as a PO and must undergo significant training, with refresher courses every three years. The PO will continually monitor progress and identify any schedule slippage via general interaction with the recipient and the Quarterly Report each recipient is required to submit. The Quarterly Report, a Term and Condition for each grant, will provide detailed information to EPA on the reporting requirements identified in Sec.1512 of the Recovery Act. In addition to these quarterly updates, EPA will administer a Recovery Act cooperative agreement review to ensure the recipient is making "sufficient progress" beginning in June of 2010, one year after date of award.

EPA has defined sufficient progress for assessment, cleanup, RLF and Job Training grants to be reasonable expectations of the progress a typical recipient would make in one year. These reasonable expectations are documented directly in the Terms and Conditions of each cooperative agreement.

- Assessment cooperative agreements- the recipient demonstrates "sufficient progress" when 35% of funds have been drawn down and obligated to eligible activities; for assessment coalitions "sufficient progress" is demonstrated when a solicitation for services has been released, sites are prioritized or an inventory has been initiated if necessary, community involvement activities have been initiated and a Memorandum of Agreement is in place within one year.
- Cleanup cooperative agreements - the recipient demonstrates "sufficient progress" when an appropriate remediation plan is in place, or institutional control development, if necessary, has commenced, initial community involvement activities have taken place, relevant state or tribal pre-cleanup requirements are being addressed and a solicitation for remediation services has been issued within one year.
- RLF cooperative agreements- the recipient demonstrates "sufficient progress" when a loan(s) and/or subgrant(s) has been made within two years.
- Job Training cooperative agreements- the recipient demonstrates "sufficient progress" when one training class has graduated from the program within one year.

**i). Transparency**

<b>Recipient Level</b>	<b>Amount of Funding</b>	<b>Performance Measures</b>
Assessment cooperative agreement recipients; TBA (EPA-lead assessment) recipients	\$33 M	Sites assessed; jobs leveraged; funding leveraged
Cleanup & RLF cooperative agreement recipients	\$57.4 M	Sites cleaned up; jobs leveraged; funding leveraged; acres made ready for reuse
Job Training cooperative agreement recipients	\$5 M	Number of participants trained; percentage of participants placed in green jobs

Eligible recipients include local governments, states, tribes and non-profits (cleanup and job training only). The Brownfields Program is positioned to provide transparent information on the performance, progress and accomplishments of brownfields projects funded with Recovery Act funds. The Program tracks specific outputs and outcomes at the recipient level and can provide that information on a quarterly basis once the recipients begin reporting accomplishment data to EPA (as described in section h).

## **j) Accountability**

The Brownfields program will ensure that the expenditure and monitoring of Recovery Act funds are transparent and that appropriate, qualified staff oversee Recovery Act resources. Managers will meet regularly to assess implementation progress and expeditiously resolve any issues related to Recovery Act-funded projects.

In compliance with the Federal Managers' Financial Integrity Act (FMFIA) EPA's ongoing management integrity program requires us to develop a multiyear program review strategy, conduct systematic and rigorous assessments of internal controls over our programmatic and financial operations, and report on the effectiveness of those controls in our annual letter of assurance to the Administrator. For FY 2009, we will be addressing the integrity of Recovery Act programs and including an additional assurance statement regarding ARRA funds and activities as part of our annual assurance letter to the Administrator.

In addition to our internal reviews, we will rely on audit findings and program evaluation results to inform our assessment and strengthen program accountability. The Brownfields program has one open audit finding from a 2008 Office of Inspector General (OIG) report. The recommendation from the OIG states: "the Assistant Administrator for Solid Waste and Emergency Response should revise model terms and conditions for assessment grants to include a definition for the term 'insufficient progress.'" The Brownfields Program currently has completed draft sufficient progress definitions for the Assessment, RLF and Cleanup cooperative agreements and will incorporate these into final Terms and Conditions (T&Cs) for agreements funded under the Recovery Act. The Brownfields Program plans to finalize the T&Cs by early May, in preparation for the Recovery Act awards in the summer of 2009.

The oversight process in place for ARRA funding ensures that managers and staff will be held accountable for performance. Senior managers' performance standards include specific performance measures related to the Brownfields program, and staff's performance standards contain measures reflecting their role and responsibilities in achieving progress. (During midyear performance reviews, these performance standards and measures are being modified to address Recovery Act-specific goals.)

## **k) Barriers to Effective Implementation**

The Brownfields program has identified several challenges to effective implementation of the Recovery Act funds that will be addressed to ensure an effective implementation strategy. Our



immediate concerns are focused on demonstrating recipient progress since the Program currently only collects data on accomplishments completed with cooperative agreement funds. Under the Recovery Act, the Program will report on interim progress of all recipients through our established reporting system, ACRES. Other reporting consequences of the Recovery Act will be similarly addressed through targeted training to staff and Recovery Act recipients to ensure accurate recipient and subcontract/subgrant information is shared on the established government timelines.

## **I) Federal Infrastructure Investments**

The Recovery Act provides funding for site assessment, job training, and cleanup activities that do not generally meet the definition of infrastructure. However, a limited amount of funding awarded to state and local governments may fall into the category of infrastructure where the principal purpose of the activity is to construct a cap to be directly incorporated into a public building or public work as defined in 2 CFR 176.140(a). It may also apply where funds are used to install piping to connect households or businesses to public water systems or replace public water system supply well(s) and associated piping due to groundwater contamination.

EPA does not consider remediation activities conducted with Brownfields supplemental funds by tribes, private sector developers, non-profit organizations (except non-profit organizations that are councils of governments or regional or interstate governmental entities per 40 CFR 31.3 *Local government*) or other non-governmental borrowers or subgrantees to be infrastructure investments for the purposes of the certification and reporting requirements.

Though the majority of our projects are not considered infrastructure investments, the Brownfields Program will continue to promote green and sustainable redevelopment on brownfield sites. Each Recovery Act cooperative agreement applicant is evaluated against criteria that weigh the “green” contribution of the proposed project. Applicants that demonstrate their commitment to sustainable practices are ranked more favorably. Each recipient is encouraged to implement sustainable practices such as green cleanup techniques, energy efficiency and reusing construction and demolition materials.

Further, the Brownfields Program will provide opportunities for additional funding and technical support to Recovery Act projects to promote sustainable redevelopment including green design and locating renewable energy facilities, such as wind farms and solar panel installations, on brownfields.