

Frequently Asked Questions [updated 8/26/2011]:

PLEASE NOTE that information on this page is subject to change based on updated federal and state guidelines as well as applicable rules and regulations.

1. What is a brownfield?

With certain legal exclusions and additions, the term "brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

In general, a brownfield could be thought of as any piece of property that has lost value because of the perception that the site might be contaminated.

The term "brownfield site" does not include a site that is listed on the National Priorities List or is proposed for listing or one that is the subject of investigation or cleanup under federal authority. *[DEQ would have to confer with the U.S. Environmental Protection Agency regarding eligibility of sites of this nature for funds made available through the American Recovery and Reinvestment Act].*

2. What funds are currently available through DEQ's Brownfields Program?

The Oklahoma Department of Environmental Quality will award approximately \$900,000 in American Recovery and Reinvestment Act (ARRA) funds as subgrants for the cleanup of brownfield sites in Oklahoma, through its existing Brownfields Revolving Loan Fund. The funds are intended to finance the cleanup of shovel-ready Brownfield projects thereby encouraging redevelopment and creating local jobs in communities across the state. Local governments and non-profit organizations are eligible for the subgrants.

3. How competitive is the ARRA Subgrant process?

The ARRA subgrant funds are available through a statewide competitive process to eligible applicants. Eligible applicants will be identified through an eligibility and ranking process. Please see Question 15 in this document and the DEQ webpage at www.deq.state.ok.us/LPDnew/brownfindex.html for more information on the criteria used for evaluation and ranking of subgrant applications.

Please note that additional information may be requested from the applicant by DEQ before a final grant award decision is made. If awarded the subgrant, the applicant will be required to comply with all applicable requirements of the American Reinvestment and Recovery Act, and applicable appropriate sections of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), National Contingency Plan (NCP), and applicable state statutes and regulations.

4. ***What is the timeline for applying for the subgrant funds?***

DEQ will accept completed Statement of Interest applications for subgrants until **August 31, 2011**. Please see the rest of this document for more information on applying for subgrants.

5. ***Can we meet with the DEQ Brownfield Program to discuss the subgrants?***

No. The grant application process is currently open. Therefore, DEQ cannot meet individually with potential applicants since it could or be perceived to give some applicants an unfair advantage. Instead, questions regarding the funds may be sent to DEQ at the email address: oklahomabrownfields@deq.gov and this document will be updated as soon as possible with the appropriate response.

6. ***What do I need to know to apply for an American Recovery and Reinvestment Act (ARRA) Brownfields Cleanup subgrant from the DEQ?***

- The ARRA Brownfields Cleanup subgrants are intended to fund sites that are **READY** to begin cleanup activities i.e. **shovel-ready**, and have enough secured funding to finish the cleanup (if required) and redevelop the site [**Phase I and Phase II Environmental Site Assessments of the site should have been completed and the contamination should be delineated**].
- If awarded, a Brownfields Cleanup subgrant from the DEQ RLF, the awardee does not have to repay the subgrant. There is no “match” required for the ARRA funding.
- The applicant must be an eligible general purpose unit of **local government, tribe or a non-profit organization** [*“For profit” organizations are not eligible for subgrants. Non-profit lobby organizations exempt from taxation under section 501(c) of the Internal Revenue Code are also not eligible*]. See Question 11 for more information on eligible entities.
- The site must satisfy the federal statutory definition of a “brownfield site” [*Brownfields are defined as “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous waste substance, pollutant, or contaminant” **]. Certain sites contaminated with petroleum or petroleum

products may be eligible for a sub-grant. Grant funds can also be used to clean up mine-scarred land, biological vectors, and sites contaminated by controlled substances unless otherwise ineligible.

- The applicant must be the sole owner (fee simple title) of the property that is the subject of the grant proposal at the time the subgrant is awarded, and must retain ownership throughout the period of performance of the subgrant.
- The subgrant funds are tied to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, aka Superfund). To be eligible for the funds, the applicants cannot be responsible, under CERCLA, for the cleanup. More information on CERCLA liability is available at:
 - www.epa.gov/superfund/policy/cercla.htm [exits DEQ]
 - www.epa.gov/swerosps/bf/aai/aaicerclafs.pdf [exits DEQ]
- If eligible, the applicant can request up to \$200,000 as a cleanup subgrant, and funds will be disbursed on a cost reimbursement basis for eligible and approved expenses. The subgrantee may request payment from DEQ after it incurs an eligible programmatic expense and is required to submit documentation of the incurred expense (e.g. invoices) to the DEQ.
- If awarded a subgrant, the borrower should be prepared and able to meet all federal and state Recovery Act reporting requirements.

** The Small Business Liability Relief and Brownfields Revitalization Act (2002) 42 USC [9601 § 101(39)]*

7. Where can I find the Statement of Interest form in Microsoft Word?

The Statement of Interest form is available in word format at the DEQ webpage: www.deq.state.ok.us/LPDnew/brownfindex.html

8. How do I know if my project is “shovel-ready”?

Shovel-ready means that you have enough sampling information and design or construction planning documents to support a cleanup [Phase I and Phase II Environmental Site Assessments of the site should have been completed and the contamination should be delineated]. You should already be in contact with the appropriate cleanup program (DEQ, Oklahoma Corporation Commission, Oklahoma Department of Labor), and the program should acknowledge that the project is ready for the cleanup stage.

9. Are ARRA grant funds available for small projects or is the funding solely for large cleanup projects?

If all the eligibility requirements (*see questions 6, 8 and 10 for more information*) are met, both large and small cleanup projects can apply for the grant funds. Eligible applicants can request up to \$200,000 as a cleanup subgrant. If awarded a subgrant, the borrower should be prepared and able to meet all federal and state Recovery Act reporting requirements (*see question 20 for more information*).

10. What non-profit organizations and local government entities are eligible for a subgrant?

For the purposes of the ARRA Brownfields Cleanup subgrant, the definition of non-profit organizations as provided in CERCLA § 104(k)(1) or a non-profit as defined in section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107, 31§USC 6101 will be used.

This law defines non-profit organizations to mean any corporation, trust, association, cooperative, or other organization that:

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

The definition of “local government” under 40 CFR 31.3, which includes a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments, any other regional or interstate government entity, or any agency or instrumentality of a local government.

11. What are eligible sites?

An eligible site must meet the federal definition of an eligible brownfield, which is “...real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” Brownfield sites include all “real property,” including residential, as well as commercial and industrial properties.

Applicants that own or plan to purchase a contaminated site must qualify for one of the landowner liability protections (innocent landowner defense, established liability protections for contiguous property owners and bona fide prospective purchasers of contaminated land) to be eligible for funding. To qualify for the liability protections, landowners must comply with certain obligations to take “appropriate care” after purchasing a property, and

prospective landowners must conduct “all appropriate inquiries” prior to purchasing a property.

For the purposes of the all appropriate inquiries requirement, a Phase I Environmental Site Assessment must be conducted or updated within one year prior to the date of acquisition of the property. In addition, certain aspects of a Phase I assessment must be updated prior to the date of acquisition, if the Phase I assessment was conducted more than 180 days prior to the date of acquisition of the property. EPA recognizes both American Society for Testing and Materials (ASTM) International's E1527-05 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and ASTM E2247-08 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland and Rural Property" as compliant with the All Appropriate Inquiries Regulation. Either of these ASTM International Phase I standards may be used to satisfy the statutory requirements for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

More information is available at EPA's All Appropriate Inquiries webpage:

www.epa.gov/brownfields/aai/index.htm [exits DEQ].

There are a number of types of sites that are not eligible for funding without a property-specific determination made by EPA, and other types of sites that are never eligible for funding or a property-specific determination.

Sites Not Eligible for funding includes:

- Facilities listed (or proposed for listing) on the National Priorities List.
- Facilities subject to planned or ongoing unilateral administrative orders, court orders, administrative orders of consent or a judicial consent decree issued to or entered into by parties under CERCLA.
- Facilities that are subject to the jurisdiction, custody or control of the United States government. (NOTE: Land held in trust by the United States government for an Indian tribe is eligible for brownfield funding.)

Sites Not Eligible for funding Without a Property-Specific Determination includes:

- Facilities subject to planned or ongoing CERCLA removal actions.
- Facilities that are subject to unilateral administrative orders, court orders, administrative orders on consent or judicial consent decree or to which a permit has been issued by the United States or an authorized state under the Solid Waste Disposal Act [as amended by the Resource Conservation and Recovery Act (RCRA)],

the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SDWA).

- Facilities subject to corrective action orders under RCRA (sections 3004(u) or 3008(h)) and to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures.
- Facilities that are land disposal units that have filed a closure notification under subtitle C of RCRA and to which closure requirements have been specified in a closure plan or permit.
- Facilities where there has been a release of polychlorinated biphenyls (PCBs) and are subject to remediation under TSCA.
- Portions of facilities for which funding for remediation has been obtained from the federal Leaking Underground Storage Tank (LUST) Trust Fund.

For further information on each of these types of sites, please read EPA's Frequently Asked Questions for FY12 Proposal Guidelines, and Appendix 3 in [EPA's Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup Grants](#) [exits DEQ]

12. Is my site eligible?

DEQ has received several questions as to whether a specific site is eligible for funds. Below are some questions to ask yourself in order to determine if you may be eligible.

| Question | Response | |
|--|----------|---------------------------------|
| Do we own the property? | Yes | No |
| Did we conduct a Phase I Environmental Assessment prior to acquiring the property? | Yes | No |
| Did we make the environmental mess? | Yes | No |
| Are we under an enforcement order to clean up the contamination? | Yes | No |
| Has the property been sampled and do we know the extent of the contamination? | Yes | No |
| Did we acquire the property by seizure for back taxes, foreclosure, or eminent domain? | Yes | Please see Question 11 for more |

| | | |
|--------------------------|--|--|
| | | information on the all appropriate inquiries requirement |
| | | |
| indicates “Not Eligible” | | indicates “May be Eligible” |

Other issues play into whether you are eligible for a grant. If you appear to be eligible after answering the questions above, DEQ encourages you to fill out a Statement of Interest. DEQ will determine eligibility during the selection process.

13. Why do some sites require property-specific determinations to be eligible for funding?

Congress specifically prohibited certain types of sites from the definition of “brownfield site” in CERCLA § 101(39)(B) and, therefore, from eligibility for brownfields funding. However, Congress listed certain sites that would normally be prohibited from funding, but could be allowed to be considered for funding if an eligibility determination was made specific to that site. Property-specific funding determinations will be made based on the availability of funding and the extent to which loan applicants can provide documentation that the funds would provide opportunities to protect human health and the environment; enhance economic development; and/or create or preserve greenspace.

14. How do I apply for an ARRA Brownfields Cleanup subgrant?

A Statement of Interest form (available at www.deq.state.ok.us/LPDnew/brownfindex.html) should be completed and sent to the DEQ at the following address:

**Ms. Subi John
Land Protection Division
Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677**

or to the following email: oklahomabrownfields@deg.ok.gov

Applicants may include relevant supporting documents e.g. Phase I and Phase II Environmental Site Assessment reports, Asbestos building inspection or survey reports, Site redevelopment plans, etc. along with the Statement of Interest form. Please note that additional information may be requested from the applicant by DEQ before a final subgrant award decision is made.

15. *What happens after I submit a Statement of Interest form to the DEQ?*

Following review of the submitted documents, an eligibility and award determination for a Brownfields cleanup subgrant will be made by the DEQ. If the application is for a petroleum subgrant DEQ will confer with the Oklahoma Corporation Commission for a site specific eligibility determination. If the property requires a specific determination from EPA regarding eligibility, DEQ will contact EPA for the determination. The criteria used in evaluation and ranking of a completed Statement of Interest will include:

- The extent to which the subgrant will meet needs of a community that is unable to draw on other sources of funding for environmental cleanup and subsequent redevelopment of the area where the brownfield site is located [30 points]
- How the subgrant will be used to protect human health and the environment (15 points)
- The extent to which the cleanup of the site will promote community-wide redevelopment and revitalization [25 points]
- How the subgrant will facilitate site redevelopment that would be “green” (i.e., energy efficient, conserve resources, seek LEED Certification, reuse of existing structures or infrastructure, reuse demolition materials, etc), or result in creation of a park, greenway or use of the site for recreation or other non-profit purposes [10 points]
- How the subgrant will create jobs (permanent and temporary) (Please see www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf for more information on the calculation of job estimates) [20 points]

The DEQ will notify the applicant of approval/denial of their ARRA Brownfields Cleanup subgrant application. If denied, the notification will explain that the application was either:

- Determined to be ineligible based on the applicable statute, regulation, or announcement requirements; or
- Determined to be ineligible based on eligibility criteria in the Statement of Interest (e.g., applicant is not an eligible entity or your proposed site/project was not eligible to be funded), or
- Not selected for award after evaluation against the ranking and selection criteria listed in the Statement of Interest.

16. Can I get help in responding to the questions on the Statement of Interest form?

DEQ urges applicants to review the Statement of Interest eligibility and ranking criteria carefully and any supplemental information provided on the DEQ website. Information provided by the applicant in the Statement of Interest forms will be reviewed, evaluated objectively, and ranked based on the criteria identified in the form. Applicants are responsible for making decisions on the content of their proposals. To ensure fairness, DEQ staff will not meet with individual applicants to discuss draft proposals, provide informal comments on draft proposals, or provide advice to applicants on how to respond to ranking criteria. However, applicants may send questions by email to oklahomabrownfields@deq.ok.gov. DEQ will evaluate those questions and post answers on the DEQ website in this FAQ document.

17. What happens after the DEQ approves my subgrant request?

- Execution of a subgrant agreement with the DEQ is the next step. In general, subgrant agreements will include binding terms and conditions that will cover areas such as complying with all applicable federal and state laws and ensuring that cleanups protect human health and the environment. Successful subgrant applicants will also be required to provide their Dun and Bradstreet Data Universal Numbering System (DUNS) number to the DEQ. Applicants can receive a DUNS number, at no cost, by calling the toll free number 1-866-705-5711 or by visiting www.dnb.com. DEQ will work closely with the applicant to process and finalize the subgrant/loan agreement package.
- The grantee/borrower must enroll their site in the appropriate state cleanup program (*Oklahoma Department of Environmental Quality, Oklahoma Corporation Commission, or the Oklahoma Department of Labor*).
- Grantee/borrower competitively procures contract support to conduct and oversee cleanup activities at the site (*Grantee/borrower should use a full and competitive process; comply with 40 CFR Part 31.36 for local governments and 30.40 for non profits; and apply Davis Bacon wage rates for construction, repair and alteration related contracts – copies of all Davis Bacon paperwork must be submitted to the DEQ*).
- Grantee/borrower designates a project spokesperson and location for the site's administrative record repository in the county where the site is located. During the life of the project, a document repository local to the site that allows the public access to all site documents during normal business hours should be maintained. Copies of all relevant site or project related documents (e.g. Community Relations Plan, Analysis of Brownfield Cleanup Alternatives, site investigation reports, Final Cleanup Plan, cleanup

standards used, responses to public comments, verification of completion of cleanup etc) should be stored at the administrative record repository.

- Preparation of a draft Community Relations Plan (CRP) by the borrower/grantee for review and comment by the DEQ and EPA.

[A CRP outlines steps to provide reasonable notice of proposed cleanup, opportunity for public involvement, response to public comments, and administrative records that are available to the public. For more information, see www.deq.state.ok.us/LPDnew/brownindex.html]

Copies of the final Community Relations Plan must be submitted to the DEQ and made available for public review at the site's administrative record repository.

- A draft Analysis of Brownfield Cleanup Alternatives (ABCA) will then be prepared by the borrower/grantee for the site (Borrower/grantees will have to meet the administrative requirements of the cleanup program in which they enroll.)

[The purpose of the ABCA is to ensure and document that the appropriate type of cleanup is selected to address the site. The ABCA must include:

- Information about the site and contamination issues (i.e., contaminants of concern, exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup alternative.
- A comparative analysis of the alternatives being considered using the criteria of effectiveness, implementability and the cost of each alternative. At a minimum, the ABCA must include a comparison of the proposed cleanup action and the "no action" alternative. As appropriate, additional cleanup alternatives may be included in the analysis. The ABCA should discuss whether/ how each alternative would achieve cleanup standards and applicable laws.
- Identifies the recommended alternative and explains the rationale for its selection
- For brownfield petroleum-only sites, an ABCA must consider a range of proven cleanup methods including identification of contaminant sources, exposure pathways, and an evaluation of corrective measures. The cleanup method chosen should be based on this analysis.

For more information, see www.deq.state.ok.us/LPDnew/brownindex.html

Copies of the final Analysis of Brownfield Cleanup Alternatives document must be made available to the DEQ and for public review at the site's administrative record repository.

- Borrower/grantee provides the public with notice of availability of draft Analysis of Brownfield Cleanup Alternatives and conducts a 30-day public comment period. The public notice (*The DEQ will provide guidance regarding the format of the public notice*) must be published in a newspaper local to the site, identifying the location (s) of the site's administrative records repository. The notice must also provide the public with an opportunity to request a formal public meeting regarding the draft Analysis of Brownfield Cleanup Alternatives document. For more information, please see www.deq.state.ok.us/LPDnew/brownfindex.html. The borrower must also provide the DEQ with the publisher's affidavit for the notice within 20 days of the date of publication.

If the DEQ receives a written timely request for a public meeting and decides that there is significant degree of public interest in the draft Analysis of Brownfield Cleanup Alternatives plan, a public meeting will be scheduled.

If comments on the ABCA are received during the public comment period or a public meeting was held in which comments are received, DEQ must then prepare a formal response to comments after the close of the comment period. If a public meeting is not requested, and if no comments are received, the final Decision Document is prepared by the DEQ. A copy of this document must be then made available for public review at the site's administrative record repository.

- Borrower/grantees will have to meet the administrative requirements of the cleanup program in which they enroll.

If a cleanup work plan for the site has already been approved by a state agency, the applicant should make copies of the final Work Plan available to the DEQ, and for public review at the site's administrative record repository.

If grantee/borrower enrolls their site with the DEQ, a draft site cleanup Work Plan which includes a Quality Assurance Project Plan [*For more information, see www.epa.gov/QUALITY/qapps.html; www.epa.gov/reg3hscd/bf-lr/granteereporting/qapp.pdf*] [*exits DEQ*]; and Health & Safety Plan along with a budget of anticipated cleanup activities and costs should be submitted to the DEQ for review and comment.

- Cleanup is implemented at the site by the borrower. The site/project manager representing the borrower should conduct periodic visits during the implementation so

as to ensure compliance with the approved cleanup work plan. Progress of site cleanup activities should be documented (e.g. with photographs, video etc.) by the borrower. Employees of the state agency conducting oversight at the site should also be provided access to the site during cleanup.

- Borrowers must erect a sign on the project site stating that the cleanup at the site is being financed in part or completely (as appropriate) by the American Recovery and Reinvestment Act of 2009, and provide the appropriate contacts for obtaining information on activities being conducted at the site.
[\[www.epa.gov/ogd/forms/Recovery_emblem_guide_v1%5B1%5D.pdf\]](http://www.epa.gov/ogd/forms/Recovery_emblem_guide_v1%5B1%5D.pdf)
- Funds will be made available to the borrower on a reimbursement basis for eligible cleanup costs incurred. Requests for reimbursement, along with supporting documentation/invoices must be submitted to the DEQ.
- Borrowers must comply with all Terms and Conditions of the subgrant agreement, including those associated with the American Recovery and Reinvestment Act. For more information on ARRA reporting requirements, see other questions in this document.
- Borrower/grantees will have to meet the administrative requirements of the cleanup program in which they enroll.

If a Cleanup Report for the site has already been approved by a state agency, the applicant should make copies of the final approved Cleanup Report available to the DEQ, and for public review at the site's administrative record repository.

If a grantee/borrower enrolls their site with the DEQ, a draft Cleanup Report documenting completion of cleanup and if conditions at the site are protective of human health and the environment; identifying any engineering and institutional controls used at the site and long term monitoring requirements; and providing evidence of achievement of cleanup goals via confirmation sampling in accordance with the approved Quality Assurance Project Plan should be prepared for review and comment by the DEQ.

For more information on EPA's Brownfield Program's activities under ARRA, see www.epa.gov/brownfields/eparecovery/index.htm

18. Are cleanup projects that have already been implemented eligible for these ARRA grant funds?

No, these funds are intended to fund future cleanup work approved by the appropriate state cleanup program (*Oklahoma Department of Environmental Quality, Oklahoma Corporation Commission, or the Oklahoma Department of Labor*) at an eligible site and not cleanup work that has already been completed at a site.

19. What are the additional requirements for use of ARRA funds?

Borrowers of ARRA funds must comply with federal and state requirements for use of the funds such as:

- a) Payment of prevailing wage rates (Davis Bacon Act)
- b) Buy American provisions (if definition of “infrastructure” applies to project)
- c) Regular reporting on the use of the funds

Please see other Questions in this document for more information on Davis Bacon Act and Buy American requirements.

20. Where can I find more information on the American Recovery and Reinvestment Act of 2009?

EPA’s website on ARRA: www.epa.gov/recovery/index.html

U.S. Government’s Official website: www.recovery.gov/Pages/home.aspx

21. What are some sources of information regarding estimation of the number of jobs created or jobs retained through the use of ARRA funds?

www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf

www.epa.gov/recovery/supplement2.html

22. What is the Davis-Bacon Act and how does it apply to my project?

The Davis-Bacon Act applies to all construction, alteration, and repair (including painting and decorating) contracts and sub-contracts awarded with EPA grant funds. For cleanup activities funded through EPA Brownfields Cleanup and Revolving Loan Fund grants, recent and applicable wage rates from the U.S. Department of Labor must be incorporated into construction, alteration, and repair (including painting and decorating) solicitation and contracts. These locally prevailing wage rates are determined by the U.S. Department of Labor, and can be accessed in a searchable database at the following addresses:

www.access.gpo.gov/davisbacon/.

www.dol.gov/whd/recovery/index.htm

The Act covers all contractors and subcontractors performing work on federally-funded or -assisted construction contracts in excess of \$2,000. Some cleanup activities at sites contaminated by petroleum are not subject to Davis-Bacon Act requirements. Such activities include site remediation through drilling temporary recovery wells, drawing out contaminated soil or water, treating the contaminated soil/water on site, removing the treatment technology and closing recovery wells, and restoration of the area surrounding tank removal that involves only filling and compaction of soil. For more information, please see EPA's fact sheet link below:

www.epa.gov/brownfields/laws/davis_bacon_and_brownfields.pdf

The borrower is responsible for ensuring that all contracts are in compliance with the Davis-Bacon Act, even if tasks are passed onto to a prime contractor. The borrower should:

- a) Ensure that all bid/contract documents must contain applicable wage determinations and labor provisions.
- b) Ensure that the prime and subcontractors submit certified payrolls and post information on the Davis-Bacon Act and prevailing wage rates
*[Oklahoma Department of Labor's Employment Standards Wage and Hour Unit:
www.ok.gov/odol/Wage_and_Hour/]*
- c) Conduct onsite interviews with laborers [minimum of once within 2 weeks of initial payment and once within 2 weeks of final payroll per contractor]
- d) Randomly spot-check payrolls/related records [minimum of once within 2 weeks of initial payment and once within 2 weeks of final payroll per contractor]
- e) Report potential violations to the DEQ immediately
- f) Maintain all records for 3 years post grant closeout and provide copies of all Davis Bacon records to DEQ.
- g) In case of prevailing State wages vs. Davis Bacon wages: Borrower must pay whichever wage rates are higher.

More information is available at:

www.epa.gov/ogd/davis_bacon/Davis_Bacon_Interim_Guidance_sec.pdf

23. What are the Buy American provisions of ARRA?

If a subgrant/loan activity falls under “infrastructure” then Buy American requirements apply to the site/project.

“Infrastructure” can be described as when 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. The DEQ should be contacted before proceeding with an activity if the borrower thinks that this description may apply to their project. For more information, please see the link below: http://www.epa.gov/ow/eparecovery/docs/2009_09_25_BA_Q&As_Part1_Revised.pdf

24. What process do I need to follow to get paid for eligible cleanup costs under the ARRA Brownfields Cleanup subgrant?

A Request for Reimbursement form or ARRA subgrant payment claim document is available at <http://deq.state.ok.us/LPDnew/brownfindex.html>. Requests for reimbursement, along with supporting documentation/invoices must be submitted to the DEQ. Original, detailed invoices from all subcontractors/vendors are required for approval of payment.

25. What are some of the eligible and ineligible costs?

Some of the eligible costs are:

- i) Cleanup actions associated with removing, mitigating, or preventing the release or threat of a release of hazardous substance, pollutant, contaminant, petroleum product, or controlled substance
- ii) Site monitoring activities which are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup
- iii) Costs associated with meeting public participation and monitoring the health of populations exposed to hazardous substances from a brownfields site
- iv) Oversight of cleanup activities (such as the costs to enter a state cleanup program)
- v) Installation of fences, warning signs, or other security or site control precautions
- vi) Installation of drainage controls
- vii) Capping contaminated soils
- viii) Excavation, consolidation, or removal of contaminated soils
- ix) Removal of drums, tanks or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum
- x) Removal of source materials, including free product recovery
- xi) Containment, treatment, or disposal of hazardous materials and petroleum products

- xii) Costs associated with documenting the ABCA
- xiii) Asbestos abatement

Funds may not be used for the payment of:

- i) A fine
- ii) A federal cost-share requirement (i.e. a cost share required by other federal funds)
- iii) A cleanup cost at a brownfield site for which the recipient of the subgrant or loan is potentially liable under CERCLA §107
- iv) Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws
- v) Unallowable costs e.g. lobbying and fund raising
- vi) Pre-cleanup activities e.g. site assessment, identification and characterization
- vii) Addressing public or private drinking water supplies that have deteriorated through ordinary use

Borrowers should comply with 2 C.F.R. Part 225 that applies to governmental units or 2 C.F.R. Part 230 which apply to non-profit organizations.

26. *What are the responsibilities of the recipient of subgrant funds?*

- Ensure that all cleanups conducted with subgrant funds comply with all applicable federal and state laws and are protective of human health and the environment
- Comply with the terms and conditions of the subgrant agreement made with the DEQ, and with ARRA requirements
- Use services of qualified environmental professionals and/or licensed contractors
- Ensure that any contractors employed comply with the terms and conditions of the subgrant agreement made with the DEQ
- Submit applicable progress reports to the DEQ in a timely manner
- Adhere to eligible cost requirements
- Comply with competitive procurement requirements [State and Local governments: 40 CFR §31.36; Nonprofit organizations/Institutions of higher education: 40 CFR§ 30]
- Maintain financial records
- Develop site specific Community Relations Plan and Analysis of Brownfield Cleanup Alternatives document
- Comply with Davis-Bacon Act requirements and Buy American requirements (if applicable)
- Prepare the Final Report that adequately addresses the achievement of agreed-upon outputs/outcomes for the site.
- Maintain the administrative record repository for the site/project

27. What are the ARRA reporting requirements that I should comply with for my ARRA Brownfield Cleanup subgrant award?

The borrower must provide the DEQ with the following:

- 1) Updates with progress of the cleanup efforts performed at the property with subgrant funds
- 2) Davis Bacon documentation
- 3) Buy American documentation (if applicable)
- 4) Copies of reimbursement claims along with supporting documents/invoices/paid bills etc.

DEQ may require recipients of a subgrant to report on their progress on Brownfield projects/sites as a result of the ARRA funds. This include, but are not limited to, the number of job created/retained, number of properties assessed and cleaned up, number of jobs leveraged as a result of assessment and cleanup activities, and the redevelopment of the properties, funding leveraged through the economic redevelopment and reuse of properties, minimization of the public's exposure to contaminants, and the number of acres made ready for reuse etc.

28. How do I incorporate green practices into my project?

For more information on green practices, see the websites below:

EPA Recovery Act webpages:

www.epa.gov/recovery/recommendations.html [exits DEQ]

www.epa.gov/recovery/resources.html [exits DEQ]

EPA's Green Building webpage:

www.epa.gov/greenbuilding/index.htm [exits DEQ]

EPA's Landscaping with native plants webpage:

www.epa.gov/greenacres/ [exits DEQ]

EPA's Greener Cleanups webpage:

www.epa.gov/oswer/greencleanups/index.html [exits DEQ]

EPA's Green Infrastructure webpage:

cfpub.epa.gov/npdes/home.cfm?program_id=298 [exits DEQ]

U.S. Department of Energy's ARRA webpage:

www1.eere.energy.gov/recovery/ [exits DEQ]

29. *What are the consequences for award recipients failing to meet the project schedule?*

Recipients of ARRA funds are expected to make every effort to proceed to construction as quickly as possible while meeting all ARRA and program requirements. To ensure the deadlines are met and ARRA funds are not lost, DEQ may withdraw and re-allocate awarded ARRA funds from those projects that are not proceeding in a timely fashion and in accordance with the approved project schedule.

30. *What are the ramifications of non-compliance with the reporting requirements?*

The subgrant agreements are awarded with stipulations outlined in the terms and conditions. Non-compliance with the reporting requirements as stated in the terms and conditions is considered a violation of the subgrant agreement. DEQ may use remedial actions necessary to ensure compliance, including withholding payments, termination of the agreement etc., as appropriate.

31. *Do tribes “own” tribal trust lands for purposes of a brownfields cleanup subgrant?*

Generally, tribes have a sufficient ownership interest in tribal trust lands to “own” such lands for purposes of a brownfields cleanup subgrant/loan.

32. *How do I get a “petroleum eligibility determination” for my site?*

Please contact the Oklahoma Corporation Commission (OCC) for a “petroleum eligibility determination” [OCC contact: Patricia Billingsley- 405-522-2758]. Once a petroleum eligibility determination has been made, please provide the DEQ with a copy of the relevant documentation.

For a petroleum contaminated site(s) that otherwise meets the definition of a brownfields site to be eligible for funding, the state or EPA must determine if:

- The site is of a relatively low risk compared with other petroleum-only sites in the state;
- There is no viable responsible party;
- Funding will be used by a party that is not potentially liable for the petroleum contamination to assess, investigate, or clean up the site; and
- Petroleum-contaminated sites must not be subject to a corrective action order under the Resource Conservation and Recovery Act (RCRA) §9003(h)

With the exception of tribes, the state determines if a petroleum contaminated site may be eligible for brownfields funding. EPA must make all determinations on eligibility of petroleum contaminated brownfield sites located on tribal lands.

33. Is another state agency within the State of Oklahoma eligible to apply for an ARRA Cleanup subgrant from the DEQ?

The DEQ cannot subgrant to another Oklahoma state agency. However, the applicant may be eligible to apply to the DEQ for a cleanup loan and/or to the U.S. Environmental Protection Agency for a grant [www.epa.gov/brownfields/applicat.htm (exits DEQ)].

34. Is a non-profit organization responsible for raising funds for an Oklahoma state agency eligible to apply for an ARRA Cleanup subgrant from the DEQ?

Please see Questions 6 and 11 for eligibility criteria. The applicant must be the sole owner (fee simple title) of the property that is the subject of the grant proposal at the time the subgrant is awarded, and must retain ownership throughout the period of performance of the subgrant.

35. What is a Targeted Brownfield Assessment?

A Targeted Brownfield Assessment (TBA) is an environmental assessment that is used to determine if contamination is likely to be found at a site where redevelopment is planned. A TBA may include a Phase I 'All Appropriate Inquiry' assessment and/or a Phase II environmental site assessment and evaluation of cleanup options.

36. Who is eligible for a TBA that is conducted by DEQ?

Public and non-profit entities such as municipalities, tribes, and community development organizations interested in redeveloping abandoned or underused properties are eligible.

37. Who conducts Targeted Brownfield Assessments (Phase I and II Environmental Site Assessments)?

TBAs are a service that can be completed by the DEQ Land Protection Division staff at no cost to the participant. However, anyone who meets the federal definition of an Environmental Professional can conduct a Phase I/II.

38. If the Oklahoma Corporation Commission is requiring the removal of USTs from a city-owned property because the USTs lack cathodic protection, then is the removal of the USTs eligible for a Brownfield Cleanup Grant?

In order to receive a Brownfield Cleanup Grant, both the site and the applicant must be eligible. In general, the removal and cleanup of petroleum underground storage tanks is an eligible expense under this grant program, but DEQ cannot make a full determination of eligibility without the information requested in the Statement of Interest.