



## **FY 2025 Funding Guidance for Section 128(a) State and Tribal Response Program funding provided by Annual Appropriations and the Bipartisan Infrastructure Law**

### Introduction

Section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), as amended,<sup>1</sup> authorizes the United States Environmental Protection Agency’s (“EPA’s”) Office of Brownfields and Land Revitalization (“Brownfields Program” or “OBLR”) to manage a noncompetitive grant program to establish or enhance state<sup>2</sup> and Tribal<sup>3</sup> environmental response programs. These CERCLA Section 128(a) response program grants (hereinafter referred to as “Section 128(a)”) are funded with categorical State and Tribal Assistance Grant (“STAG”) appropriations and awarded in the form of a cooperative agreement, which is a type of assistance agreement that is used when there is substantial federal involvement with the recipient during the performance of an activity or project. Section 128(a) cooperative agreements are awarded and administered by EPA regional offices.

The Infrastructure Investment and Jobs Act (“Bipartisan Infrastructure Law” or “BIL”),<sup>4</sup> signed into law in November 2021, invests \$300 million over five federal fiscal years (FY22-FY26), “to carry out section 128 of [CERCLA].” This amounts to approximately \$60 million per year in cooperative agreements for states and Tribal Nations to build response program capacity, oversee brownfields cleanups, and conduct site assessment and cleanup activities.<sup>5</sup> The Bipartisan Infrastructure Law did not alter the underlying statutory authority for the CERCLA Section 128(a) Program, but simply provided crucial additional funds to support it. One of EPA’s top priorities is uplifting underserved communities<sup>6</sup>, Tribal Nations, and communities across the country that have endured deeply-rooted public health and environmental challenges.

In addition, pursuant to CERCLA Section 128(a)(1)(B)(ii)(III), the Brownfields Program has authority to allocate up to \$1.5 M of CERCLA 104(k) funding for technical assistance grants (“Section 128(a) TAGs”) to assist small communities, Indian Tribes, rural areas, or disadvantaged areas, in carrying out activities described in Section 104(k)(7)(A), such as providing training, research, and technical assistance to individuals and organizations, as appropriate, to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation. By law, the maximum amount per Section 128(a) TAG is \$20,000. In FY25, EPA will allow eligible states and Tribal Nations to request up to three Section 128(a) TAGs to benefit eligible communities. They will be funded with annual appropriated funds, not BIL funds. See Appendix A of this Funding Guidance for additional information regarding requesting Section 128(a) TAG funding, and review the [Section 128\(a\) TAG Fact Sheet](#) for general information.

<sup>1</sup> 42 USC 9628(a).

<sup>2</sup> For purposes of this document, the term “state” is defined at CERCLA § 101(27).

<sup>3</sup> For purposes of this document, the term “Indian Tribe” is defined at CERCLA § 101(36). Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002, are also eligible for funding under CERCLA § 128(a).

<sup>4</sup> For more information, please see <https://www.whitehouse.gov/bipartisan-infrastructure-law/>.

<sup>5</sup> For more information, please see <https://www.epa.gov/brownfields/bipartisan-infrastructure-law-historic-investment-brownfields>.

<sup>6</sup> When EPA uses the term “underserved communities” it has the meaning defined in Executive Order 13985: Advancing Racial Equity And Support For Underserved Communities Through The Federal Government, which defines “underserved communities” as “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life as exemplified in the preceding definition of equity.” As described in the Executive Order, the term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, which may include Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

The Brownfields Program issues this FY 2025 Section 128(a) Funding Guidance, for funding that is provided by EPA's FY25 Annual Appropriation Act and the FY25 Section 128(a) BIL funds.<sup>7</sup> The Assistance Listing (<https://sam.gov/content/assistance-listings>) for Section 128(a) cooperative agreements is **66.817**. For additional information about the Section 128(a) Program, please see the [Section 128\(a\) Fact Sheet](#) and the [Section 128\(a\) State and Tribal Response Program](#) page on the [EPA Brownfields website](#).

### FY25 Highlights

- Requests for **CERCLA Section 128(a) response program** funding will be accepted from **September 17, 2024, until December 13, 2024**, and should be **sent to the EPA Regional Office contact listed in this Guidance**. Requests that EPA receives after December 13, 2024, will not be considered for FY 2025 Section 128(a) funding.
- EPA will accept **one request for a CERCLA Section 128(a) response program grant** from each eligible state or Tribal Nation.
- Requests for funding must include the information listed in **Sections VII and VIII** of this Guidance. States or Tribal Nations that do not submit the request in the appropriate manner may not be eligible to receive funds.
- EPA will consider funding requests **up to a maximum of \$1.8 million total** for FY25 Section 128(a) funding per Cooperative Agreement Recipient ("CAR"). This maximum amount includes Annual Appropriation + BIL funds.
- Please note that **demand for this program is high and not all requests will be fully funded**.
- Once EPA makes final determinations with respect to funding requests and allocations of funds, the state or Tribal Nation will work with the appropriate EPA regional office to negotiate a cooperative agreement, which includes a final workplan and budget. For planning purposes, EPA anticipates that the FY25 funds allocated pursuant to this Funding Guidance will be awarded in the third or fourth quarter of the federal fiscal year 2025 (April-September 2025). Section 128(a) cooperative agreements are awarded and administered by EPA regional offices; please contact your regional EPA Project Officer for more specific timing on cooperative agreement awards.
- Section 128(a) Bipartisan Infrastructure Law funds **may not be comingled with other sources of funding**, and EPA will award the funds **separately** from other grant awards.
- Section 128(a) Bipartisan Infrastructure Law funds **are not eligible to be included in State and Tribal Performance Partnership Grants ("PPGs")** under 40 CFR Part 35 Subparts A and B. This restriction is intended to ensure that Section 128(a) grant recipients will be able to effectively track, account for, and report on the use of Bipartisan Infrastructure Law funding. However, **Section 128(a) funding from EPA's FY25 annual appropriation may be included in a PPG** with the exception of funding to 1) capitalize a revolving loan fund for brownfields remediation under section 104(k)(3), 2) purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program, or 3) to provide CERCLA 128(a) TAG assistance under section 128(a)(I)(B)(ii)(III).
- EPA expects that funding awarded to cooperative agreement recipients will advance Justice40 priorities. EPA will award this funding in accordance with the [Justice40 Initiative](#), which establishes a goal to deliver 40 percent of the overall benefits from key federal investments to disadvantaged communities.
- EPA will place special emphasis on reviewing a cooperative agreement recipient's use of prior Section 128(a) funding in making allocation decisions. Unexpended balances are subject to 40 CFR 35.118 and 40 CFR 35.518 to the extent consistent with this guidance.
- Requests for **CERCLA Section 128(a) TAG** funding will be accepted from **September 17, 2024, until March 10, 2025**, and should be **sent to the EPA Regional Office contact listed in this Guidance**. Requests that EPA receives after March 10, 2025, will not be considered for FY 2025 Section 128(a) TAG funding.
- In FY25, EPA will allow eligible states and Tribal Nations to request **up to three TAGs** at up to \$20,000 per grant. Section 128(a) TAGs will be funded with annual appropriated funds, not BIL funds. See Appendix A of this Funding Guidance for additional information regarding requesting Section 128(a) TAG.

<sup>7</sup> EPA may waive any provision of this guidance that is not required by statute, regulation, Executive Order, or overriding EPA policies.

## **Table of Contents**

<b>I. BACKGROUND .....</b>	<b>4</b>
<b>II. ELIGIBILITY FOR FUNDING .....</b>	<b>4</b>
<b>III. MATCHING FUNDS/COST-SHARE .....</b>	<b>5</b>
<b>IV. THE FOUR ELEMENTS - SECTION 128(a)(2).....</b>	<b>5</b>
<b>V. PUBLIC RECORD REQUIREMENT .....</b>	<b>6</b>
<i>A. Distinguishing the “survey and inventory” element from the “public record” .....</i>	<i>6</i>
<i>B. Making the public record easily accessible .....</i>	<i>6</i>
<i>C. Long-term maintenance of the public record .....</i>	<i>7</i>
<b>VI. USE OF FUNDING.....</b>	<b>7</b>
<i>A. Overview and Prioritization of Funds .....</i>	<i>7</i>
<i>B. Uses related to establishing a state or Tribal response program.....</i>	<i>8</i>
<i>C. Uses related to enhancing a state or Tribal response program .....</i>	<i>8</i>
<i>D. Uses related to site-specific activities .....</i>	<i>8</i>
<i>E. Uses related to activities at “non-brownfield” sites .....</i>	<i>11</i>
<b>VII. GENERAL PROGRAMMATIC GUIDELINES FOR SECTION 128(a) GRANT FUNDING REQUESTS .....</b>	<b>11</b>
<i>A. One application per State or Tribal Nation .....</i>	<i>11</i>
<i>B. Maximum funding request.....</i>	<i>11</i>
<i>C. Define the State or Tribal response program .....</i>	<i>11</i>
<i>D. Separate cooperative agreements for Bipartisan Infrastructure Law Funds .....</i>	<i>11</i>
<i>E. Bipartisan Infrastructure Law funds may not be used for Section 128(a) Technical Assistance Grants (“TAGs”).....</i>	<i>12</i>
<i>F. Section 128(a) cooperative agreements funded with Bipartisan Infrastructure Law money may not be part of a Performance Partnership Grant (“PPG”).....</i>	<i>12</i>
<i>G. Project period.....</i>	<i>12</i>
<i>H. Demonstrating the four elements.....</i>	<i>12</i>
<i>I. Establishing and maintaining the public record .....</i>	<i>12</i>
<i>J. Demonstration of significant utilization of prior years’ funding .....</i>	<i>13</i>
<i>K. Allocation system and process for distribution of funds .....</i>	<i>13</i>
<i>L. Separate cooperative agreements for the capitalization of RLFs using Section 128(a) funds and authority to manage a RLF program.....</i>	<i>13</i>
<b>VIII. INFORMATION TO BE SUBMITTED WITH THE FUNDING REQUEST.....</b>	<b>14</b>
<i>A. FY25 Section 128(a) funding requests due to the appropriate EPA Regional Brownfields Contact by December 13, 2024... 14</i>	
<i>B. Sample Section 128(a) Request Form in Appendix B .....</i>	<i>16</i>
<b>IX. TERMS AND REPORTING.....</b>	<b>16</b>
<i>A. Progress reports .....</i>	<i>16</i>
<i>B. Reporting Program Activity Levels (“PALs”) .....</i>	<i>18</i>
<i>C. Reporting of public record .....</i>	<i>18</i>
<i>D. Updating the State Brownfields and Voluntary Response Programs Report in ACRES .....</i>	<i>19</i>
<i>E. Cooperative Agreement Award Administration Information .....</i>	<i>19</i>
<b>REGIONAL STATE AND TRIBAL BROWNFIELDS CONTACTS .....</b>	<b>21</b>
<b>APPENDIX A: FUNDING GUIDANCE FOR CERCLA SECTION 128(A) TECHNICAL ASSISTANCE GRANTS (“TAGS”) .....</b>	<b>22</b>
<b>APPENDIX B: SAMPLE SECTION 128(A) FUNDING REQUEST FORM.....</b>	<b>24</b>

## **I. BACKGROUND**

State and Tribal<sup>8</sup> response programs oversee assessment and cleanup activities at brownfield sites across the country. The depth and breadth of these programs vary; some focus on CERCLA-related activities, while others are multi-faceted, addressing sites regulated by both CERCLA and the Resource Conservation and Recovery Act (“RCRA”). Many states also offer accompanying financial incentive programs to spur cleanup and redevelopment of contaminated properties. In enacting CERCLA Section 128(a),<sup>9</sup> Congress recognized the value of state and Tribal response programs in cleaning up and reusing brownfield sites. Section 128(a) strengthens EPA’s partnerships with states and Tribal Nations and recognizes their response programs’ critical role in overseeing cleanups.

The passage of the Bipartisan Infrastructure Investment and Jobs Act (“BIL” or “Bipartisan Infrastructure Law”)<sup>10</sup> in November 2021, did not alter the underlying statutory authority for the CERCLA Section 128(a) Program, but simply provided additional funds to support it.

Section 128(a) funding is intended for states and Tribal Nations that have the required management and administrative capacity within their government to administer a federal grant. The primary goal of this funding is to ensure that state and Tribal response programs include, or are taking reasonable steps to include, certain elements of an environmental response program and that the program establishes and maintains a public record of sites addressed.

Subject to the availability of funds, EPA regional personnel will provide technical assistance to states and Tribal Nations as they apply for and carry out Section 128(a) cooperative agreements funded with appropriations made available to EPA under the Bipartisan Infrastructure Law.

## **II. ELIGIBILITY FOR FUNDING**

Eligible entities for Section 128(a) funding include:

- A State, as defined in CERCLA § 101(27)
- An Indian Tribe, as defined in CERCLA § 101(36)
- Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002.

To be eligible for Section 128(a) funding, an eligible entity must:

1. demonstrate that it has a response program that includes, or is taking reasonable steps to include, the four elements of a response program enumerated in CERCLA Section 128(a)(2) and described in Section IV of this guidance; **or** be a party to a voluntary response program Memorandum of Agreement (“VRP MOA”) with EPA; **AND**
2. maintain and make available to the public a record of sites at which response actions have been completed in the previous year and are planned to be addressed in the upcoming year (see CERCLA Section 128(b)(1)(C)).

Intertribal consortia who request Section 128(a) funding must provide documentation<sup>11</sup> that meets the requirements in 40 CFR 35.504(a) and (c). The purpose of this documentation is to demonstrate that all members of the consortium (within the United States) meet the eligibility requirements for the grant program and authorize the consortium to submit the funding request and receive the federal funding assistance outlined in this Funding Guidance.<sup>12</sup>

---

<sup>8</sup> There are currently 574 federally recognized Tribes, and there are many names that these sovereign nations use to describe their culture, history, and geography, including Tribe, Village, Nation, Band, and Pueblo. For this Funding Guidance, the EPA Brownfields Program uses “Tribe” and “Tribal Nation” as all-encompassing terms.

<sup>9</sup> Section 128(a) was added to CERCLA in 2002 by the Small Business Liability Relief and Brownfields Revitalization Act.

<sup>10</sup> For more information, please see <https://www.whitehouse.gov/bipartisan-infrastructure-law/>

<sup>11</sup> This “documentation” may be provided in any form that the consortium’s tribal members prefer and is efficient from the consortium’s perspective (examples include: letter, email, conference call notes, transcription of a voicemail, resolution of the Board of Directors/Council Presidents, etc.). For more information, please reach out to your EPA Regional State & Tribal Brownfield Contact(s) listed in this funding guidance.

<sup>12</sup> This documentation should be provided to the appropriate EPA Regional State & Tribal Brownfield contact(s) along with the funding request documents on December 13, 2024. If additional time is needed to provide the necessary documentation, your EPA Regional State & Tribal Brownfield Contact(s) have the discretion to grant extra time (not to exceed 45 days) to comply with this requirement. However, the remainder of the required funding request documentation listed under Section VIII. of this funding guidance must still be provided by the December 13, 2024, deadline.

### **III. MATCHING FUNDS/COST-SHARE**

States and Tribal Nations are not required to provide cost shares (“matching funds”) for Section 128(a) cooperative agreements, with the exception of Section 128(a) funds a state or Tribal Nation uses to capitalize a Brownfields Revolving Loan Fund (“RLF”), for which there is a 20% cost share requirement. Section 128(a) funds used to capitalize a RLF must be expended in accordance with CERCLA Section 104(k)(3).

### **IV. THE FOUR ELEMENTS - SECTION 128(a)(2)**

Section 128(a) recipients that do not have a VRP MOA with EPA must demonstrate that their response program includes, or is taking reasonable steps to include, the four elements enumerated in CERCLA Section 128(a)(2) and described below. **Achievement and continuing enhancement of the four elements should be viewed as a priority.** CERCLA Section 128(a) authorizes funding for activities necessary to establish or enhance the four elements and to establish and maintain the public record requirement.

The four elements of a response program enumerated in CERCLA Section 128(a)(2) are described below:

**1. Timely survey and inventory of brownfield sites in state or Tribal land.**

The goal for this element is to enable the state or Tribal Nation to establish or enhance a system or process that will provide a reasonable estimate of the number, likely locations, and the general characteristics of brownfield sites in their state or Tribal lands.

EPA recognizes the varied scope of state and Tribal response programs and will not require states and Tribal Nations to develop a “list” of brownfield sites. However, at a minimum, the state or Tribal Nation must develop and/or maintain a system or process that can provide a reasonable estimate of the number, likely location, and general characteristics of brownfield sites within their state or Tribal lands. Inventories may evolve to a prioritization of sites based on community needs, planning priorities, and protection of human health and the environment. Inventories should be developed in direct coordination with communities, and particular attention should focus on communities with limited capacity to compete for and manage a competitive brownfield assessment, revolving loan, or cleanup cooperative agreement.

Given funding limitations, EPA will negotiate workplans with states and Tribal Nations to achieve this goal efficiently and effectively and within a realistic time frame. For example, many of EPA’s CERCLA Section 104(k)(2) Brownfields Assessment cooperative agreement recipients conduct inventories of brownfield sites in their communities or jurisdictions. EPA encourages states and Tribal Nations to work with these cooperative agreement recipients to obtain the information that they have gathered and include it in their survey and inventory.

**2. Oversight and enforcement authorities or other mechanisms and resources.**

The goal for this element is to have state and Tribal response programs that include oversight and enforcement authorities or other mechanisms and resources to ensure that:

- a. a response action will protect human health and the environment and be conducted in accordance with applicable laws; and
- b. the state or Tribal Nation will complete the necessary response activities if the person conducting the response action fails to complete them (this includes operation and maintenance and/or long-term monitoring activities).

**3. Mechanisms and resources to provide meaningful opportunities for public participation.<sup>13</sup>**

The goal for this element is to have states and Tribal Nations include in their response program mechanisms and resources for meaningful public participation, at the local level, including, at a minimum:

- a. public access to documents and related materials that a state, Tribal Nation, or party conducting the

---

<sup>13</sup> States and Tribal Nations establishing this element may find useful information on public participation on the EPA's community involvement web site at <https://www.epa.gov/superfund/superfund-community-involvement>.

cleanup is relying on or developing to make cleanup decisions or conduct site activities;

- b. prior notice and opportunity for meaningful public comment on cleanup plans and site activities; and
- c. a mechanism by which a person who is, or may be, affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site —located in the community in which the person works or resides—may request that a site assessment be conducted. The appropriate state or Tribal official must consider this request and appropriately respond.

4. **Mechanisms for approval of cleanup plans and verification and certification that cleanup is complete.**

The goal for this element is to have states and Tribal Nations include in their response program mechanisms to approve cleanup plans and to verify that response actions are complete, including a requirement for certification or similar documentation from the state, the Tribal Nation, or a licensed site professional that the response action is complete. Written approval by a state or Tribal response program official of a proposed cleanup plan is an example of an approval mechanism.

## **V. PUBLIC RECORD REQUIREMENT**

In order to be eligible for Section 128(a) funding, states and Tribal Nations (including those with MOAs) must establish and maintain a public record system, as described below, to enable meaningful public participation<sup>14</sup> (refer to Section IV.3 above). Specifically, per CERCLA Section 128(b)(1)(C), states and Tribal Nations must:

1. maintain and update, at least annually, or more often as appropriate, a public record that includes the name and location of sites at which response actions have been completed during the previous year;
2. maintain and update, at least annually, or more often as appropriate, a public record that includes the name and location of sites at which response actions are planned in the next year; and
3. identify in the public record whether or not the site, upon completion of the response action, will be suitable for unrestricted use. If not, the public record must identify the institutional controls relied on in the remedy and include relevant information concerning the entity responsible for oversight, monitoring, and/or maintenance of the institutional and engineering controls; and how the responsible entity is implementing those activities (see Section V.C).

Section 128(a) funds may be used to maintain and make available a public record system that meets the requirements discussed above.

### **A. Distinguishing the “survey and inventory” element from the “public record”**

It is important to note that the public record requirement of CERCLA Section 128(a)(2)(C) differs from the “timely survey and inventory” element in CERCLA Section 128(a)(2)(A) described in the “Four Elements” Section IV.1. above. The public record addresses sites at which response actions have been completed in the previous year or are planned in the upcoming year. In contrast, the “timely survey and inventory” element, described above, refers to identifying brownfield sites regardless of planned or completed actions.

### **B. Making the public record easily accessible**

EPA’s goal is to enable states and Tribal Nations to make the public record and other information, such as information from the “survey and inventory” element, easily accessible. For this reason, EPA will allow states and Tribal Nations to use Section 128(a) funding to make such information available to the public via the internet or other avenues. For example, EPA would support funding state and Tribal efforts to include detailed location information in the public record such as the street address and latitude and longitude information for each site.<sup>15</sup> States and Tribal Nations should ensure that all affected communities have appropriate access to the public record by making it available on-line, in-print at libraries, or at other community gathering places.

<sup>14</sup> CERCLA §128(b)(1)(C).

<sup>15</sup> For further information on data quality requirements for latitude and longitude information, please see the EPA’s data standards web site available at [https://www.epa.gov/sites/production/files/2015-06/documents/latlongstandard-v2a\\_10022014.pdf](https://www.epa.gov/sites/production/files/2015-06/documents/latlongstandard-v2a_10022014.pdf).

In an effort to reduce cooperative agreement reporting requirements and increase access to the public record, EPA encourages states and Tribal Nations to place their public record on the internet, if they are able to do so. If a state or Tribal Nation places the public record on the internet, maintains the substantive requirements of the public record, and provides EPA with the link to that site, EPA will, for purposes of cooperative agreement funding only, deem the public record reporting requirement met.

### ***C. Long-term maintenance of the public record***

EPA encourages states and Tribal Nations to maintain public record information, including data on institutional controls, on a long-term basis (more than one year) for sites at which a response action has been completed. Subject to EPA regional office approval, states or Tribal Nations may include development and operation of systems that ensure long-term maintenance of the public record, including information on institutional controls (such as ensuring the entity responsible for oversight, monitoring, and/or maintenance of the institutional and engineering controls is implementing those activities) in their workplans.<sup>16</sup>

## **VI. USE OF FUNDING**

### ***A. Overview and Prioritization of Funds***

CERCLA Section 128(a)(1)(B) provides that states and Tribes may use Section 128(a) funding to establish or enhance their response programs. Specifically, a state or Tribe may use cooperative agreement funds to build response programs that include the four elements outlined in Section 128(a)(2), which are summarized in this Funding Guidance in Section IV above.

There is very high demand for Section 128(a) funds, and **not all requests can be fully funded**. As expressly stated in the Assistance Listing for 66.817, funding will be prioritized as follows:

- (1) Funding for program development activities to establish or enhance the four elements of a state or Tribal response program (see Sections VI.B. and VI.C. below) and to enable states and Tribal Nations to comply with the public record requirement in Section 128(b)(1)(C), including activities related to institutional controls;
- (2) Funding for program development activities to enhance the response program or the cleanup capacity of a state or Tribal response program;
- (3) Funding for site-specific activities at eligible brownfield sites, as defined in CERCLA Section 101(39)<sup>17</sup> (see Section VI.D. below);
- (4) Funding for environmental insurance mechanisms;
- (5) Funding to capitalize brownfields cleanup RLFs.<sup>18</sup>

One of EPA's top priorities is uplifting underserved communities, Tribal Nations, and communities across the country that have endured deeply-rooted public health and environmental challenges. EPA expects that Section

---

<sup>16</sup> States and Tribal Nations may find useful information on institutional controls on the EPA's institutional controls web site at <https://www.epa.gov/superfund/superfund-institutional-controls-guidance-and-policy>.

<sup>17</sup> In addition to the requirement under Section 128(a)(2)(C)(ii) to provide for public comment on cleanup plans and site activities, EPA strongly encourages states and Tribal Nations to seek public input regarding the priority of sites to be addressed—especially from local communities with health risks related to exposure to hazardous waste or other public health concerns, those in economically disadvantaged or remote areas, and those with limited experience working with government agencies.

<sup>18</sup> Capitalizing a revolving loan fund ("RLF") for brownfields cleanup is authorized under CERCLA section 104(k)(3). These RLFs are subject to the same statutory requirements and cooperative agreement terms and conditions applicable to RLFs awarded under CERCLA section 104(k)(3), with one exception: although non-competitive supplemental funding for RLFs established under CERCLA 128(a) is authorized, the source of the funding would be the CERCLA 128(a) appropriation rather than the CERCLA 104(k) appropriation. Requirements include a 20 percent cost share (in the form of money, labor, material, or services from a non-federal source in compliance with 2 CFR 200.306) on the amount of Section 128(a) funds used for the RLF, the 5% limitation on eligible administrative costs, and a prohibition on using RLF loans or subgrants for response costs at a site for which the recipient may be potentially liable under section 107 of CERCLA. Other prohibitions relevant to CERCLA Section 104(k)(4) also apply.

128(a) funding awarded to cooperative agreement recipients will advance Justice40 priorities. EPA will award this funding in accordance with the [Justice40 Initiative](#) which establishes a goal to deliver 40 percent of the overall benefits from key federal investments to disadvantaged communities.

### **B. Uses related to establishing a state or Tribal response program**

Under Section 128(a), “establish” includes activities necessary to build the foundation for the four elements of a state or Tribal response program and the public record requirement. For example, a state or Tribal response program may use Section 128(a) funds to develop regulations, ordinances, procedures, guidance, and a public record.

### **C. Uses related to enhancing a state or Tribal response program**

Under Section 128(a), “enhance” includes related activities that add to or improve a state or Tribal response program or increase the number of sites at which response actions are conducted under such programs.

The exact enhancement activities that may be allowable depend upon the workplan negotiated between the EPA regional office and the state or Tribal Nation. For example, regional offices and states or Tribal Nations may agree that Section 128(a) funds may be used for outreach and training directly related to increasing awareness of their response programs and improving the skills of program staff (training examples include ASTM standards for conducting Limited Transaction Screens, Environmental Phase I and Phase IIs). It may also include developing better coordination and understanding of other state or Tribal environmental programs.

States and Tribal response program enhancement activities can also include outreach to local communities to increase awareness about brownfields, building a sustainable brownfields program, federal brownfields technical assistance<sup>19</sup> (e.g., holding workshops to assist communities in applying for federal Brownfields Grant funding, attending health fairs and cleanup days to inform individuals how to identify hazards in their own living areas, abandoned buildings, and among dumping areas), and knowledge regarding the importance of monitoring engineering and institutional controls. Additionally, enhancement activities can include facilitating the participation of the state and local agencies (e.g., transportation, water, other infrastructure) in implementation of brownfields projects. States and Tribal Nations can also help local communities collaborate with local workforce development entities or Brownfields Job Training recipients on the assessment and cleanup of brownfield sites.<sup>20</sup> Other response program enhancements may be allowable as well.

### **D. Uses related to site-specific activities**

#### *1. Eligible uses of funds for site-specific activities*

Site-specific assessment and cleanup activities **must establish or enhance the response program** and be tied to the four elements. Site-specific assessments and cleanups can be both eligible and allowable if the activity is included in the workplan negotiated between the EPA regional office and the state or Tribal Nation, but activities must comply with all applicable laws and are subject to the following restrictions:

- a. Section 128(a) funds can **only** be used for assessments or cleanups **at sites that meet the definition of a Brownfields site at CERCLA Section 101(39)**. EPA encourages states and Tribal Nations to use site-specific funding to perform assessment (e.g., Phase I, Phase II, supplemental environmental assessments, and cleanup planning) and cleanup activities that will expedite the reuse and redevelopment of sites, and prioritize sites based on need.<sup>21</sup>

<sup>19</sup> EPA expects states and Tribal Nations will familiarize themselves with EPA’s brownfields technical assistance opportunities for brownfields communities. For more information on technical assistance opportunities, please visit: <https://www.epa.gov/brownfields/brownfields-technical-assistance-training-and-research>.

<sup>20</sup> For more information about EPA’s Brownfields Job Training Program, please visit: <https://www.epa.gov/brownfields/brownfields-job-training-jt-grants>.

<sup>21</sup>“Environmental justice” means the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the



- b. As provided in the terms and conditions of CERCLA 128(a) cooperative agreements, absent EPA Project Officer approval, **no more than \$250,000 per site assessment** can be funded with Section 128(a) funds, and **no more than \$250,000 per site cleanup** can be funded with Section 128(a) funds. States and Tribal Nations should work toward securing additional funding for site-specific activities by leveraging resources from other sources such as businesses, non-profit organizations, education and training providers, and/or federal, state, Tribal, and local governments.
- c. States and Tribal Nations that perform site-specific activities should plan to directly engage with and involve affected communities. For example, a Community Involvement Plan (“CIP”) could be developed to provide reasonable notice about a planned cleanup, as well as opportunities for the public to comment on the cleanup.
- d. CARs should describe in their requests whether, and if so, how, site-specific work will affect underserved communities and/or disadvantaged communities. EPA recommends using EPA’s EJScreen Supplemental Indexes or the White House Council on Environmental Quality’s [Climate and Economic Justice Screening Tool](#) (“CEJST”) to identify whether sites are located in an underserved or disadvantaged community. CARs may also use data from other EJ-focused geospatial mapping tools, or other sources (e.g., studies, census, etc.) to provide information on impacted communities and populations.
- e. As provided in the terms and conditions of Section 128(a) cooperative agreements, absent EPA Project Officer approval, the state/Tribal Nation may not use funds awarded under this agreement to assess and/or cleanup sites owned or operated by the recipient or (in the case of Tribal Nations) held in trust by the United States Government for the recipient.
- f. Assessments and cleanups cannot be conducted at sites where the state is a potentially responsible party (“PRP”) pursuant to CERCLA Section 107, except when the state acquired the property before January 11, 2002, and has not caused or contributed to a release or threatened release of a hazardous substance at the property.
- g. Subawards are defined at 2 CFR 200.1 and may not be awarded to for-profit organizations. If the recipient plans on making any subawards under the cooperative agreement, then it becomes a pass-through entity for the purposes of EPA’s “Establishing and Managing Subawards” [General Term and Condition](#) and EPA’s [Subaward Policy](#). As the pass-through entity, the recipient must report on its subaward monitoring activities under 2 CFR 200.332(d). Additional reporting requirements for these activities will be included in the cooperative agreement.

In addition, subawards cannot be provided to entities that may be PRPs (pursuant to CERCLA Section 107) at the site for which the assessment or cleanup activities are proposed to be conducted, except when the subrecipient acquired the property before January 11, 2002, and has not caused or contributed to a release or threatened release of a hazardous substance at the property.

## 2. *Limitations on the amount of funds used for site-specific activities and waiver process*

- a. States and Tribal Nations may use Section 128(a) funding for site-specific activities that improve state or Tribal capacity. However, the terms and conditions of the CERCLA 128(a) cooperative agreement will provide that **the amount recipients may utilize for site-specific assessments and cleanups may not exceed 75% of the recipient’s total amount of FY25 Section 128(a) funding.**<sup>22</sup> This 75% cap includes FY25 Annual Appropriation + BIL funds.

---

environment so that people are fully protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices. For more information, please visit <https://www.epa.gov/environmentaljustice>.

<sup>22</sup> Oversight of assessment and cleanup activities performed by responsible parties (other than the state or Tribal Nation) does not count toward the 75% limit. The 75% cap also does not include personnel or supplies/equipment purchased in support of site-specific work.

- b. In order to exceed the 75% site-specific funding limit, a state or Tribal Nation must submit a written waiver request to the EPA Project Officer; waiver requests must include the following information in the written justification:
- total amount requested for site-specific activities;
  - percentage of the site-specific activities (assuming waiver is approved) in the total budget;
  - site-specific activities that will be covered by this funding, and how these activities establish or enhance the response program and are tied to the four elements;
  - how the affected community will be (or has been) involved in prioritization and planning of site work, especially those sites where there is a potential or known significant environmental impact to the community;
  - whether (and if so, how) such work will benefit an underserved and/or disadvantaged community; and
  - an explanation of how this shift in funding will not negatively impact the state or Tribal Nation's core programmatic capacity (i.e., the ability to establish/enhance the four required elements of a response program) and how the core program activities will be maintained in spite of an increase in site-specific work. CARs must demonstrate that they have adequate funding from other sources to effectively carry out work on the four elements for EPA to grant a waiver of the 75% limit on using 128(a) funds for site-specific activities.
- c. The EPA Project Officer will review the waiver request and make a recommendation to EPA's Office of Brownfields and Land Revitalization ("OBLR"). OBLR will review waiver requests based on the information in the written justification, the EPA Project Officer recommendation, and other information available to EPA. Waivers will be approved on a very limited basis. The EPA Project Officer will inform the CAR whether the waiver is approved.

3. Uses related to site-specific activities at petroleum brownfield sites

States and Tribal Nations may use Section 128(a) funds for activities that establish or enhance response programs addressing petroleum brownfield sites. Subject to the restrictions listed above (see Section VI.D.1) for all site-specific activities, the costs of site-specific assessment and cleanup activities at petroleum brownfield sites, as defined in CERCLA section 101(39)(D)(ii)(II), are both eligible and allowable if the activity is included in the workplan negotiated between the EPA regional office and the state or Tribal Nation.<sup>23</sup>

States and Tribal Nations are encouraged to reach out to their EPA regional brownfields contacts with questions on petroleum brownfield site eligibility. Additional resources can be found on EPA's Brownfields website, such as [Community Visions for Abandoned Gas Stations](#) and EPA's Office of Underground Storage Tank's ("OUST's") [Petroleum Brownfields webpage](#).

4. Additional Examples of Eligible Site-Specific Activities

Other eligible uses of funds for site-specific related work include, but are not limited to, the following activities:

- technical assistance to CERCLA 104(k) brownfields cooperative agreement recipients;
- development and/or review of quality assurance project plans ("QAPPs"); and
- entering data into the Assessment Cleanup and Redevelopment Exchange System ("ACRES") database.

---

<sup>23</sup> Section 128(a) funds used to capitalize a Brownfields RLF may be used at brownfield sites contaminated by petroleum to the extent allowed under CERCLA section 104(k)(3), subject to the Brownfields RLF requirements described above.

### **E. Uses related to activities at “non-brownfield” sites**

Other uses not specifically referenced in this guidance may also be eligible and allowable. Recipients should consult with their EPA Project Officer for additional guidance. Costs incurred for activities at non-brownfield sites may be eligible and allowable if such activities are included in the state’s or Tribe’s workplan, however, **direct assessment and cleanup activities may only be conducted on eligible brownfield sites, as defined in CERCLA Section 101(39).**

## **VII. GENERAL PROGRAMMATIC GUIDELINES FOR SECTION 128(a) GRANT FUNDING REQUESTS**

Funding authorized under Section 128(a) is awarded through a cooperative agreement<sup>24</sup> between EPA and a state or a Tribal Nation (the Cooperative Agreement Recipient (“CAR”)). The Brownfields Program administers cooperative agreements under the *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* regulations for all entity types including states, Tribal Nations, and local governments found in the Code of Federal Regulations (“CFR”) at 2 CFR Part 200 and any applicable EPA regulations at 2 CFR Part 1500, as well as applicable provisions of 40 CFR Part 35 Subparts A and B. Under these regulations, the CAR for a Section 128(a) grant is the government to which a cooperative agreement is awarded and which is accountable for use of the funds provided.

The CAR is the legal entity even if only a particular component of the entity is designated in the cooperative agreement award document. Further, unexpended balances of cooperative agreement funds are subject to restrictions under 40 CFR 35.118 and 40 CFR 35.518. EPA allocates funds to state and Tribal response programs consistent with 40 CFR 35.420 and 40 CFR 35.737.

### **A. One application per State or Tribal Nation**

EPA will accept one funding request from each eligible state or Tribal Nation.<sup>25</sup>

### **B. Maximum funding request**

EPA will consider funding requests up to a **maximum of \$1.8 million** for FY25 Section 128(a) funding per CAR. This maximum amount includes Annual Appropriation + BIL funds. Please note that demand for this program is high and not all requests will be fully funded.

### **C. Define the State or Tribal response program**

CARs must define in their funding request the Section 128(a) response program(s) to which the funds will be applied and may designate a component of the state or Tribal Nation that will be EPA’s primary point of contact. When EPA funds the Section 128(a) cooperative agreement, CARs may distribute these funds among the appropriate state and Tribal agencies that are part of the Section 128(a) response program. This distribution must be clearly outlined in their final workplan.

### **D. Separate cooperative agreements for Bipartisan Infrastructure Law Funds**

Due to the budget accounting, tracking, and reporting requirements for the Bipartisan Infrastructure Law, Section 128(a) cooperative agreements funded with Bipartisan Infrastructure Law money must be awarded separately from Section 128(a) cooperative agreements funded with annual appropriated funds.

If a CAR’s FY25 allocation includes both funding sources, and therefore two awards are necessary, each award’s final workplans must clearly delineate what activities will be funded by Annual Appropriation funds versus Bipartisan Infrastructure Law funds. Please work closely with your EPA Project Officer to ensure that there is no overlap or duplication of work funded by the two sources of funding.

---

<sup>24</sup> A cooperative agreement is an agreement with a state/Tribal Nation that includes substantial involvement by the EPA on activities described in the workplan, which may include technical assistance, collaboration on program priorities, etc.

<sup>25</sup> [Entities eligible to receive State and Tribal Response Grants](#) include: State, as defined in CERCLA § 101(27), Indian Tribe, as defined in CERCLA § 101(36), and Intertribal consortia, as defined in the Federal Register Notice at 67 FR 67181, Nov. 4, 2002.

### **E. Bipartisan Infrastructure Law funds may not be used for Section 128(a) Technical Assistance Grants (“TAGs”)**

In FY25, EPA will allow eligible states and Tribal Nations to request up to three (3) Section 128(a) Technical Assistance Grants (“TAGs”) at up to \$20,000 per grant. Section 128(a) TAGs will be funded with annual appropriated funds, not BIL funds. Review the [Section 128\(a\) TAG Fact Sheet](#) for general information and see Appendix A of this Funding Guidance for information regarding requesting FY25 Section 128(a) TAG funding.

### **F. Section 128(a) cooperative agreements funded with Bipartisan Infrastructure Law money may not be part of a Performance Partnership Grant (“PPG”)**

**Section 128(a) Bipartisan Infrastructure Law funds are not eligible to be included in State and Tribal Performance Partnership Grants (“PPGs”)** under 40 CFR Part 35 Subparts A and B. This restriction is intended to ensure that Section 128(a) recipients will be able to effectively track, account for, and report on the use of Bipartisan Infrastructure Law funding.

However, **Section 128(a) funding from EPA’s FY25 annual appropriation may be included in a PPG**, with the exception of funding to 1) capitalize a revolving loan fund for brownfields remediation under section 104(k)(3), 2) purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a state or tribal response program, or 3) to provide CERCLA 128(a) TAG assistance under section 128(a)(1)(B)(ii)(III).

### **G. Project period**

EPA regional offices will determine the project period for each cooperative agreement. Depending on the EPA regional office’s cooperative agreement policies, cooperative agreements may be for multiple years. CARs are encouraged to discuss this potential option with their regional EPA Project Officer.

Notwithstanding this potential overall structure, each cooperative agreement must still have an annual budget period tied to an annual workplan, because CARs must still submit annual funding requests to receive additional funds added to the agreement. While not prohibited, pre-award costs are subject to 40 CFR 35.113 and 40 CFR 35.513.

### **H. Demonstrating the four elements**

As part of the final workplan negotiation process, CARs that do not have VRP MOAs will need to demonstrate that their response program includes, or is taking reasonable steps to include, the four elements described in Section IV. EPA will not fund a CAR’s workplan if EPA determines that these elements are not met, or reasonable progress is not being made. EPA may base this determination on the information the CAR provides to support its initial funding request, on previous year’s progress reports, or on EPA’s review of the CAR’s response program.

### **I. Establishing and maintaining the public record**

Prior to funding a CAR’s final workplan, EPA regional offices will verify and document that a public record, as described in Section V and below, exists and is being maintained.<sup>26</sup> Specifically, for:

- CARs that received initial funding prior to FY24: Requests for FY25 funds will not be accepted from states or Tribal Nations that fail to demonstrate, by the December 13, 2024, request deadline, that they established and are maintaining a public record. (*Note*, this would potentially impact any CAR that had a term and condition placed on their FY24 cooperative agreement that prohibited drawdown of FY24 funds prior to meeting the public record requirement). CARs in this situation will not be prevented from drawing down their prior year funds once the public record requirement is met; and
- CARs that received initial funding in FY24: By the time of the actual FY25 award, the CAR must demonstrate that they established and maintained the public record (those states and Tribal Nations that do not meet this requirement will have a term and condition placed on their FY25 cooperative agreement that

<sup>26</sup> This public record requirement applies to the CAR’s response program(s) that utilized the Section 128(a) funding.

prohibits the drawdown of FY25 funds until the public record requirement is met).

### **J. Demonstration of significant utilization of prior years' funding**

CARs should be aware that EPA and its Congressional appropriations committees place significant emphasis on the utilization of prior years' funding. Unused funds awarded prior to or during FY23 will be considered in the allocation process.

### **K. Allocation system and process for distribution of funds**

EPA regional offices will work with interested CARs to develop their FY25 funding requests. After the December 13, 2024, request deadline, EPA's regional offices will submit summaries of CAR requests and allocation recommendations to OBLR.

Regional offices may take multiple factors into account when determining recommended allocation amounts, including, but not limited to the depth and breadth of the CAR's program, and the scope of the perceived need for funding (e.g., size of state or Tribal jurisdiction or the proposed workplan balanced against capacity of the program, amount of current year funding, funds remaining from prior years, etc.).

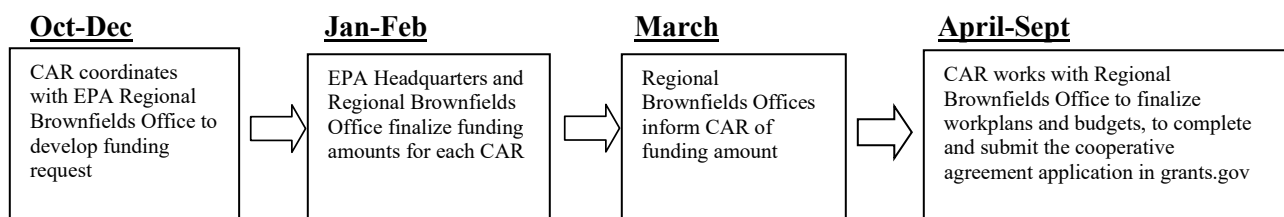
EPA expects that funding awarded to CARs will advance Justice40 priorities, which establishes a goal to deliver 40 percent of the overall benefits from key federal investments to historically overburdened and underserved communities.

After receipt of the regional recommendations, OBLR will consolidate requests and make final decisions on the FY25 funding allocation.

EPA anticipates that the FY25 allocation decisions will be finalized, and regional offices will communicate those final allocation decisions to CARs, in March 2025. CARs will then work with the appropriate EPA regional office to negotiate final cooperative agreement workplans and budgets. Generally, EPA anticipates that those final, negotiated cooperative agreements will be awarded in the third or fourth quarter of FY2025 (April-September 2025). Because Section 128(a) cooperative agreements are awarded and administered by EPA regional offices, CARs should contact their regional EPA Project Officer for more specific timing on cooperative agreement awards.

Unless approved with the award of this cooperative agreement, the CAR must receive written approval by EPA's Award Official or Grants Management Officer of a final workplan within 60 calendar days following the date of the award. The CAR must receive documentation of written EPA approval of the final workplan by EPA's Project Officer or other authorized EPA official prior to expenditure of federal funds under this cooperative agreement. Unless the EPA Award Official or Grants Management Officer grants a waiver, no funds may be drawn down without an EPA approved final workplan. If the recipient fails to obtain EPA approval of the final workplan within 60 days of award, EPA may terminate this agreement under 2 CFR § 200.340.

The general schedule and process is illustrated below (*dates are estimates and subject to change*):



### **L. Separate cooperative agreements for the capitalization of RLFs using Section 128(a) funds and authority to manage a RLF program**

If a portion of the Section 128(a) grant funds requested will be used to capitalize a RLF for cleanup, pursuant to CERCLA section 104(k)(3), two separate cooperative agreements must be awarded (i.e., one for the RLF and one

for non-RLF uses). CARs must, however, submit one initial request for funding, delineating the RLF as a proposed use. Section 128(a) funds used to capitalize an RLF are not eligible for inclusion into a Performance Partnership Grant (“PPG”).

If a CAR chooses to use its Section 128(a) funds to capitalize a RLF program, the CAR must have the lead authority to manage the program (e.g., hold funds, make loans, enter into loan agreements, collect repayment, access and secure the site in event of an emergency or loan default). If the agency/department listed as the point of contact for the Section 128(a) cooperative agreement does not have this authority, it must be able to demonstrate that another agency within that state or Tribal Nation has the authority to manage the RLF and is willing to do so.

## **VIII. INFORMATION TO BE SUBMITTED WITH THE FUNDING REQUEST**

### **A. FY25 Section 128(a) funding requests due to the appropriate EPA Regional Brownfields Contact by December 13, 2024.**

1. All CARs requesting FY25 Section 128(a) funds must submit a funding request to the appropriate EPA regional brownfields contact listed on the last page of this funding guidance by December 13, 2024.

CARs are not required to provide full draft workplans and budgets. Instead, information can be provided in a format similar to the sample request form in Appendix B of this Funding Guidance and described in Section VIII.B. below. Note that this is an optional, sample form being provided for convenience, and CARs who do not use this form will not be penalized for providing the information in a different format.

- a. EPA may request additional information, if it is deemed appropriate to fully understand a CAR’s funding request. EPA Regions and CARs should work together to be sure CARs are providing sufficient information for their funding request and may alter the sample form to memorialize those communications.
- b. While CARs do not need to provide a full draft workplan, *there must be enough detail to inform EPA how the CAR proposes to spend the Section 128(a) funds. Requests that lack sufficient detail may not be funded.*
- c. CARs should work, as early as possible, with their EPA regional brownfields contact to ensure that the funding amount requested can be reasonably spent in one year and the funding request provides sufficient detail of planned activities.
- d. Demand for this program is high, and not all requests will be fully funded. Refer to Section VI.A. of this Funding Guidance to see how EPA will prioritize the allocation of FY25 Section 128(a) funding.

### **2. Annual Appropriation and BIL Funds**

- a. CARs should work as early as possible with their EPA regional brownfields contact to ensure that the CAR is providing the information that the region needs to make informed allocation recommendations with respect to annual appropriation and BIL funds.
  - i. CARs’ requests *may* include a total amount of funding for their Section 128(a) activities for the year, which does not specify the funding source (annual appropriation vs. BIL).
    1. Exception: Section 128(a) BIL funds **are not eligible** to be included in state and Tribal Performance Partnership Grants (“PPGs”) under 40 CFR Part 35 Subparts A and B. This restriction is intended to ensure that CARs are able to effectively track, account for, and report on the use of Bipartisan Infrastructure Law funding.

2. Therefore, if a CAR has a PPG, it must be made clear in the request what funds are for the PPG, and whether the CAR is also requesting BIL funding to be awarded separately.

- ii. Alternatively, a CAR *may* expressly state in their request the amount of funding that they are requesting from annual appropriation vs. BIL funds (for example, if a CAR currently has two multiyear Cooperative Agreements, because they previously received both annual appropriation and BIL funds in FY24, and the CAR wants to specify certain funding sources for particular activities).
- b. Once EPA makes final determinations with respect to funding requests and allocation of funds, and those determinations are communicated to each CAR (anticipated in March 2025), the CAR will work with their EPA regional brownfields contact to negotiate a cooperative agreement, which includes a final workplan and budget.
- c. If Section 128(a) BIL funds are allocated to a CAR, they may not be comingled with other sources of funding, and EPA will award the BIL funds separately from other grant awards. If a CAR is allocated both annual appropriation and BIL funds in FY25, the CAR should work closely with the EPA Project Officer to ensure that the CAR's two FY25 Cooperative Agreement final workplans clearly delineate what activities will be funded by annual appropriation versus BIL funds to avoid any overlap or duplication.

**3. Programmatic Capability – [Only Include if Specifically Requested by Region]**

- a. EPA Regions may request demonstration of Programmatic Capability for any new Section 128(a) funding requesters, or if a returning CAR has experienced key staff turnover or has open programmatic review findings.
- b. The CAR's corresponding EPA Region will notify returning recipients if the information below is required; if so, it must be included with your funding request.
  - i. Describe the organizational structure you will utilize to ensure sound program management to guarantee or confirm timely and successful expenditure of funds, and completion of all technical, administrative, and financial requirements of the program and cooperative agreement.
  - ii. Include a brief description of the key qualifications of staff to manage the response program and/or the process you will follow to hire staff to manage the response program. If key staff is already in place, include their roles, expertise, qualifications, and experience.
  - iii. Discuss how this response program fits into your current environmental program(s). If you do not have an environmental program, describe your process to develop, or interest to start one.
  - iv. Describe if you have had adverse audit findings. If you have had problems with the administration of any grants or cooperative agreements, describe how you have corrected, or are correcting, the problems.

**4. How will the requested funding affect underserved communities and/or disadvantaged communities (as identified by [CEJST](#))?**

- a. A top priority for EPA is uplifting underserved communities, Tribal Nations, and other communities across the country that have endured deeply rooted public health and environmental challenges.
- b. EPA expects that funding awarded to CARs will advance Justice40 priorities, which establishes a goal to deliver 40 percent of the overall benefits from key federal investments to disadvantaged communities.
- c. If appropriate, provide names and locations of sites, information about the communities, etc., to support

your request.

**5. Demonstration of significant utilization of prior years' funding**

- a. CARs that received Section 128(a) funds *prior to FY24* must provide an explanation and justification of funds (from FY23 or older) that remain in EPA's Financial Data Warehouse as unspent balances.
- b. EPA will take into account these funds in the allocation process when determining the recipient's programmatic needs under 40 CFR 35.420 and 40 CFR 35.737.

**B. Sample Section 128(a) Request Form in Appendix B**

The optional, sample FY25 Section 128(a) request form in APPENDIX B of this Funding Guidance is provided for convenience, and CARs who do not use this form will not be penalized for providing the information in a different format.

EPA Regions and CARs should work together to be sure CARs are providing sufficient information for their funding request and may alter the sample form to memorialize those communications. EPA may request additional information, if it is deemed appropriate to fully understand a CAR's funding request.

**IX. TERMS AND REPORTING**

Once the assistant administrator for the Office of Land and Emergency Management (OLEM) makes final determinations with respect to guidance to the Regions on funding requests and allocations of funds, the CAR will work with the appropriate EPA regional office to negotiate a cooperative agreement, which includes a final workplan and budget. A cooperative agreement is an assistance agreement that is used when there is *substantial federal involvement* with the recipient during the performance of an activity or project. EPA awards cooperative agreements for those projects in which it expects to have substantial interaction with the CAR throughout the CAR's performance of the project.

Cooperative agreements between EPA and CARs will include programmatic and administrative terms and conditions and will outline EPA's substantial involvement with the CAR during the period of performance, including technical assistance and collaboration on program development and prior approvals for site-specific activities. Each of the subsections below summarizes the basic terms and conditions and related reporting that will be incorporated into your cooperative agreement.

Due to the additional budget accounting, tracking, and reporting associated with Bipartisan Infrastructure Law funds, CARs should anticipate additional reporting requirements associated with cooperative agreements funded with Bipartisan Infrastructure Law funds. EPA encourages CARs to work with their regional EPA Project Officer to stay informed on the latest information and potential additional terms and conditions for their cooperative agreements.

**A. Progress reports**

In accordance with 2 CFR 200.329 and related EPA-specific regulations, CARs must provide progress reports meeting the terms and conditions of their negotiated cooperative agreement. A CAR's costs for complying with reporting requirements are an eligible expense under the Section 128(a) cooperative agreement. At a minimum, progress reports must include both a narrative discussion and performance data relating to the CAR's accomplishments and environmental outputs associated with the approved budget and workplan.

If applicable, the CAR must include information on activities related to establishing or enhancing the four statutory elements of the CAR's response program. All CARs must provide information related to establishing or, if already established, maintaining the public record. Reports must also provide an accounting of Section 128(a) Bipartisan Infrastructure Law funding.

Depending upon the activities included in the CAR's workplan, the CAR will also need to report on the following:

1. *Interim and final progress reports.* Reports must prominently display the following information, as reflected in the current EPA strategic plan: Strategic Plan Goal 6: Safeguard and Revitalize Communities; Strategic



Plan 6.1: Clean Up and Restore Land for Productive Uses and Healthy Communities; and Workplan Commitments and Timeframes. EPA's strategic plan can be found at <https://www.epa.gov/planandbudget/strategicplan>.

2. *Reporting for Non-MOA states and Tribal Nations.* All CARs without a VRP MOA must report activities related to establishing or enhancing the four elements of their response programs. For each element, CARs must report how they are maintaining the element or how they are taking reasonable steps to establish or enhance the element as negotiated in individual CAR workplans. For example, pursuant to CERCLA section 128(a)(2)(B), reports on the oversight and enforcement authorities/mechanisms element may include a:
  - narrative description and copies of applicable documents developed or under development to enable the response program to conduct enforcement and oversight at sites. For example:
    - legal authorities and mechanisms (e.g., statutes, regulations, orders, agreements); and
    - policies and procedures to implement legal authorities; and other mechanisms;
  - description of the resources and staff allocated/to be allocated to the response program to conduct oversight and enforcement at sites as a result of the cooperative agreement;
  - narrative description of how these authorities or other mechanisms, and resources, are adequate to ensure that:
    - a response action will protect human health and the environment; and be conducted in accordance with applicable federal and state laws; and if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities will be completed; and
  - narrative description and copy of appropriate documents demonstrating the exercise of oversight and enforcement authorities by the response program at a brownfield site.
3. *Reporting for site-specific assessment or cleanup activities.*

CARs with workplans that include funding for brownfield site assessment or cleanup activities must input information required by the OMB-approved Property Profile Form into the ACRES database for each site assessment and/or and cleanup in compliance with the programmatic terms and conditions of their CERCLA Section 128(a) cooperative agreements.

In addition, per CERCLA Section 128(a)(2)(C)(ii), CARs must report how they will provide the affected community with prior notice and opportunity for meaningful participation on proposed cleanup plans and site activities. For example, EPA expects that CARs will seek public input regarding the priority of sites to be addressed and to solicit input from local communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged, or remote communities, and communities with limited experience working with government agencies.
4. *Reporting for other site-specific activities.*

CARs with workplans that include funding for *other site-specific related activities* must include a description of the site-specific activities and the number of sites at which each activity was conducted. For example, the:

  - number and frequency of oversight audits of licensed site professional certified cleanups;
  - number and frequency of state/Tribal oversight audits conducted;
  - number of sites where staff conducted audits, provided technical assistance, or conducted other oversight activities; and
  - number of staff conducting oversight audits, providing technical assistance, or conducting other oversight activities.
5. *Reporting required when using funding for an RLF.* CARs with workplans that include funding for a revolving loan fund must include the information required by the terms and conditions for progress reporting under CERCLA section 104(k)(3) RLF cooperative agreements.

6. *Reporting environmental insurance.* CARs with workplans that include funding for environmental insurance must report the:

- number and description of insurance policies purchased (e.g., name of insurer, type of coverage provided, dollar limits of coverage, any buffers or deductibles, category and identity of insured persons, premium, first dollar or umbrella, whether site specific or blanket, occurrence or claims made, etc.);
- number of sites covered by the insurance;
- amount of funds spent on environmental insurance (e.g., amount dedicated to insurance program, or to insurance premiums); and
- amount of claims paid by insurers to policy holders.

7. *EPA Regional Office discretion to request additional information*

EPA's regional offices may also request that additional information be added to the progress reports, as appropriate, to properly document activities described by the cooperative agreement workplan. EPA regions may allow CARs to provide performance data in appropriate electronic format.

The regional offices will forward progress reports to OBLR, if requested. This information may be used to develop national reports on the outputs and outcomes of Section 128(a) funding to states and Tribal Nations.

### **B. Reporting Program Activity Levels ("PALs")**

All CARs must report a summary of the *previous federal fiscal year's* work (October 1 through September 30), known as Program Activity Levels ("PALs"). CARs must report PALs **once** annually when the Section 128(a) funding request is due to the appropriate EPA Regional Office in mid-December.

CARs who receive Section 128(a) annual appropriated funds and Section 128(a) Bipartisan Infrastructure Law funds **are not** required to provide two separate PALs reports; their **one** PALs report should reflect all activities for the period covering the last federal fiscal year (October 1 – September 30), regardless of whether the activity was funded by annual appropriated funds or Bipartisan Infrastructure Law funds.

**For FY24 PALs reporting (due by December 13, 2024), CARs must report PALs information directly in EPA's [Assessment, Cleanup and Redevelopment Exchange System \("ACRES"\)](#) database.**

**For detailed instructions on how to report PALs in ACRES, please see the quick reference guide at <https://www.epa.gov/brownfields/grant-recipient-reporting>.**

### **C. Reporting of public record**

All CARs must report information related to establishing, or if already established, maintaining a public record, as specified in the terms and conditions of their cooperative agreement and Section VII.I of this guidance. To meet this reporting requirement, a CAR needs to demonstrate that the public record: a) exists, b) is up-to-date, and c) is adequate. CARs can refer to an existing public record (e.g., website or other public database) to meet the public record requirement.

A public record must, as appropriate, include the following information:

1. A list of sites at which response actions have been completed in the past year, including:

- date the response action was completed;
- site name;
- name of owner at time of cleanup, if known;
- location of the site (street address, and latitude and longitude);

- whether an institutional control is in place;
  - type of institutional control(s) in place (e.g., deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed notices, advisories, etc.);
  - nature of the contamination at the site (e.g., hazardous substances, contaminants or pollutants, petroleum contamination, etc.); and
  - size of the site in acres.
2. A list of sites planned to be addressed by the state or Tribal response program in the coming year, including:
- site name and the name of owner at time of cleanup, if known;
  - location of the site (street address, and latitude and longitude);
  - to the extent known, whether an institutional control is in place;
  - type of the institutional control(s) in place (e.g., deed restriction, zoning restriction, local ordinance, state registries of contaminated property, deed notices, advisories, etc.);
  - to the extent known, the nature of the contamination at the site (e.g., hazardous substances, contaminants, or pollutants, petroleum contamination, etc.); and
  - size of the site in acres.

### **D. Updating the State Brownfields and Voluntary Response Programs Report in ACRES**

State CARs must update their [State Brownfields and Voluntary Response Programs](#) information in [ACRES](#) at least once a year (and may update more frequently if changes in their response program warrant an additional update), so that EPA has accurate, up-to-date information to share with the public in the form of an online [State Brownfields and Voluntary Response Program Search](#). EPA expects that this annual update will occur when states are already in the [ACRES database](#) performing other required ACRES reporting, thereby reducing the administrative burden.

For detailed instructions on how to update your state brownfields information in ACRES, please see the quick reference guide at <https://www.epa.gov/brownfields/grant-recipient-reporting>.

### **E. Cooperative Agreement Award Administration Information**

#### 1. Subaward and executive compensation reporting

Applicants must ensure that they have the necessary processes and systems in place to comply with the subaward and executive total compensation reporting requirements established under OMB guidance at 2 CFR Part 170, unless they qualify for an exception from the requirements, should they be selected for funding.

#### 2. System for Award Management (“SAM”) and Unique Entity Identifier (“UEI”) Requirements

All EPA funding opportunities (competitive and non-competitive) use UEI-compatible grant application packages. Please see the [RAIN-2021-G01](#) for information about EPA's implementation of the Government-wide transition from DUNS to UEI. To learn more about SAM, go to [SAM.gov](#) or <https://www.sam.gov/portal/public/SAM/>.

If an applicant fails to comply with these requirements, it will affect their ability to receive the award.

#### 3. Submitting an application via Grants.gov

- a. The **funding request due on December 13, 2024, should not be submitted via Grants.gov**. The request

should be emailed to the regional contact listed at the end of this guidance.

- b. Recipients should submit their final workplan via Grants.gov only after the allocation process is complete and the EPA Regional Project Officer has informed the CAR that it is time to do so (likely in Spring 2025).
- c. If Section 128(a) funding is allocated to a CAR, it will be provided through a cooperative agreement award. All cooperative agreement applications for non-competitive assistance agreement awards must be submitted using Grants.gov. Below is the information that the applicant will use to submit their State and Tribal Response Program Grant applications via grants.gov:

**Assistance Listing number: 66.817**

**Funding Opportunity Number (FON): EPA-CEP-02**

**To learn more about the Grants.gov submission requirements, go to <https://www.epa.gov/grants/how-apply-grants>.**

- d. When the EPA Project Officer informs you to submit your final workplan in Grants.gov, it must be submitted using the “Workspace” feature. Information on the Workspace feature can be found at [Grants.gov Workspace Overview Page](#).

#### 4. Use of funds

A CAR that receives an award under this Funding Guidance is expected to manage assistance agreement funds efficiently and effectively and make sufficient progress toward completing the project activities described in the workplan in a timely manner. The cooperative assistance agreement will include terms and conditions related to this requirement.

## REGIONAL STATE AND TRIBAL BROWNFIELDS CONTACTS

REGION	STATE	TRIBAL
1 CT, ME, MA, NH, RI, VT	<b>AmyJean McKeown</b> 5 Post Office Square, Suite 100 (OSRR07-2) Boston, MA 02109-3912 <b>Phone</b> (617) 918-1248 <a href="mailto:mckeown.amyjean@epa.gov">mckeown.amyjean@epa.gov</a>	<b>AmyJean McKeown</b> 5 Post Office Square, Suite 100 (OSRR07-2) Boston, MA 02109-3912 <b>Phone</b> (617) 918-1248 <a href="mailto:mckeown.amyjean@epa.gov">mckeown.amyjean@epa.gov</a>
2 NJ, NY, PR, VI	<b>Ashita Patel</b> 290 Broadway, 25th Floor New York, NY 10007-1866 <b>Phone</b> (212) 637-4372 <a href="mailto:patel.ashita@epa.gov">patel.ashita@epa.gov</a>	<b>Ashita Patel</b> 290 Broadway, 25th Floor New York, NY 10007-1866 <b>Phone</b> (212) 637-4372 <a href="mailto:patel.ashita@epa.gov">patel.ashita@epa.gov</a>
3 DE, DC, MD, PA, VA, WV	<b>Chris Lesniak</b> 1600 John F. Kennedy Blvd. Philadelphia, PA 19103 <b>Phone</b> (215) 814-5360 <a href="mailto:lesniak.christopher@epa.gov">lesniak.christopher@epa.gov</a>	<b>Sydney Adams</b> 1600 John F. Kennedy Blvd. Philadelphia, PA 19103 <b>Phone</b> (215) 814-2106 <a href="mailto:adams.sydney@epa.gov">adams.sydney@epa.gov</a>
4 AL, FL, GA, KY, MS, NC, SC, TN	<b>Nichole Rodgers</b> 61 Forsyth Street, S.W, 13 <sup>th</sup> FL (9T25) Atlanta, GA 30303-8960 <b>Phone</b> (404) 562-8069 <a href="mailto:rodgers.nichole@epa.gov">rodgers.nichole@epa.gov</a>	<b>Nichole Rodgers</b> 61 Forsyth Street, S.W, 13 <sup>th</sup> FL (9T25) Atlanta, GA 30303-8960 <b>Phone</b> (404) 562-8069 <a href="mailto:rodgers.nichole@epa.gov">rodgers.nichole@epa.gov</a>
5 IL, IN, MI, MN, OH, WI	<b>Keary Cragan</b> 77 West Jackson Boulevard (SB-5J) Chicago, IL 60604-3507 <b>Phone</b> (312) 353-5669 <a href="mailto:cragan.keary@epa.gov">cragan.keary@epa.gov</a>	<b>Jacqueline Coreno</b> 77 West Jackson Boulevard (SB-5J) Chicago, IL 60604-3507 <b>Phone</b> (312) 886-6136 <a href="mailto:coreno.jacqueline@epa.gov">coreno.jacqueline@epa.gov</a>
6 AR, LA, NM, OK, TX	<b>Ana Esquivel</b> 1201 Elm Street, Suite 500 Dallas, Texas 75270-2102 <b>Phone</b> (214) 665-3163 <a href="mailto:esquivel.ana@epa.gov">esquivel.ana@epa.gov</a>	<b>Elizabeth Reyes</b> 1201 Elm Street, Suite 500 Dallas, Texas 75270-2102 <b>Phone</b> (214) 665-2194 <a href="mailto:reyes.elizabeth@epa.gov">reyes.elizabeth@epa.gov</a>
7 IA, KS, MO, NE	<b>Susan Klein</b> 11201 Renner Boulevard (LCRD/BRRB) Lenexa KS 66219 <b>Phone</b> (913) 551-7786 <a href="mailto:klein.susan@epa.gov">klein.susan@epa.gov</a>	<b>Jennifer Morris</b> 11201 Renner Boulevard ((LCRD/BRRB) Lenexa KS 66219 <b>Phone</b> (913) 551-7341 <a href="mailto:morris.jennifer@epa.gov">morris.jennifer@epa.gov</a>
8 CO, MT, ND, SD, UT, WY	<b>Erin Joyce</b> 1595 Wynkoop Street (LCRD-BR) Denver, CO 80202-1129 <b>Phone</b> (303) 312-6677 <a href="mailto:joyce.erin@epa.gov">joyce.erin@epa.gov</a>	<b>Ted Lanzano</b> 1595 Wynkoop Street (LCRD-BR) Denver, CO 80202-1129 <b>Phone</b> (303) 312-6596 <a href="mailto:lanzano.ted@epa.gov">lanzano.ted@epa.gov</a>
9 AZ, CA, HI, NV, AS, GU, MP	<b>Lisa Hanusiak</b> 75 Hawthorne Street San Francisco, CA 94105 <b>Phone</b> (415) 972-3152 <a href="mailto:hanusiak.lisa@epa.gov">hanusiak.lisa@epa.gov</a>	<b>Richie Donahou</b> 75 Hawthorne Street San Francisco, CA 94105 <b>Phone</b> (808) 539-0542 <a href="mailto:donahou.richie@epa.gov">donahou.richie@epa.gov</a>
10 AK, ID, OR, WA	<b>Madison Sanders-Curry</b> 1200 Sixth Ave, Suite 155 (mail code 15-H04) Seattle, WA 98101 <b>Phone</b> (206) 553-1889 <a href="mailto:sanders-curry.madison@epa.gov">sanders-curry.madison@epa.gov</a>	<b>Madison Sanders-Curry</b> 1200 Sixth Ave, Suite 155 (mail code 15-H04) Seattle, WA 98101 <b>Phone</b> (206) 553-1889 <a href="mailto:sanders-curry.madison@epa.gov">sanders-curry.madison@epa.gov</a>

## **APPENDIX A: Funding Guidance for CERCLA Section 128(a) Technical Assistance Grants (“TAGs”)**

Section 128(a)(1)(B)(ii)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), as amended, authorizes a noncompetitive \$1.5 million<sup>27</sup> technical assistance grant (“Section 128(a) TAG”) program to assist small communities,<sup>28</sup> Indian Tribes,<sup>29</sup> rural areas, or disadvantaged areas<sup>30</sup> to carry out activities outlined in CERCLA Section 104(k)(7) (e.g., providing training, research, and technical assistance to individuals and organizations to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation).

Per the statute at section 128(a)(1)(B)(iii)(II), the **maximum amount of funding allowed per grant is \$20,000**. These funds may not be used to augment an existing CERCLA 128(a) State and Tribal Program and **may not** be placed in Performance Partnership Grants (“PPGs”). Section 128(a) TAGs are funded by annual appropriations, not BIL funds.

Requests for Section 128(a) TAGs are due to the appropriate EPA Regional Brownfields contact **by March 10, 2025**.

Cooperative agreement recipients (“CARs”) with active CERCLA Section 128(a) grants who are requesting funds in FY25 are eligible **to submit requests for up to three (3) TAGs of \$20,000 each** to assist a small community, Indian Tribe, rural area, or disadvantaged area. Once approved, the Section 128(a) TAGs may be awarded in the same cooperative agreement as the CAR’s 128(a) annual appropriation allocation, as authorized by CERCLA Section 128(a)(1)(B)(iii)(III), with distinct accounting codes to draw down funds from the appropriate grants.

Multiple eligible communities may be assisted by one Section 128(a) TAG. EPA’s goal is that these TAGs benefit as many underserved communities as possible, therefore, if a CAR requests more than one Section 128(a) TAG, each \$20,000 grant should be to assist a different eligible beneficiary or different project. CARs should work with their EPA regional contact to discuss eligible beneficiaries and activities for these TAGs.

For additional information on Section 128(a) TAGs, including examples of uses for the funds, see the [Section 128\(a\) TAG fact sheet](#) on the [Brownfields website](#), and the [ASTSWMO Section 128\(a\) TAG StoryMap](#).

### **Requests will be considered based on the following:**

- readiness of the recipient and community to complete the project within a year of award,
- the recipient is in good standing with their current CERCLA Section 128(a) grant,
- the recipient has documented support from the community benefiting from this grant, and
- the recipient adequately responds to the criteria listed below.

### **Each request should be no more than 2-3 pages and should include the following:**

1. the amount of funding requested,
2. a description of the target community and how it meets the definition of a small community, Indian Tribe, rural area, or disadvantaged area,

<sup>27</sup> If EPA receives over \$1.5 million in requests, it will evaluate projects based on the criteria listed in Appendix A. EPA will prioritize fully funding high quality projects until the appropriation cap is reached.

<sup>28</sup> CERCLA Section 128(a)(1)(B)(iv)(II) defines Small Community as a community with a population of not more than 15,000 individuals, as determined by the President based on the latest available decennial census.

<sup>29</sup> CERCLA Section 101(36) defines Indian Tribe.

<sup>30</sup> CERCLA Section 128(a)(1)(B)(iv)(I) defines Disadvantaged Area as a community with an annual median household income that is less than 80 percent of the statewide annual median household income, as determined by the President based on the latest available decennial census.

3. a description of the proposed project, including an explanation of key activities and how the proposed project will further brownfields reuse,
4. the expected outcomes and timeline to complete the project,
5. how/who will be conducting the activities (e.g., state, Tribal Nation, contractor)<sup>31</sup>
6. if additional resources are necessary to complete the project, please explain how you will secure them,
7. an explanation of why existing state or Tribal funding is inadequate to complete the proposed project,
8. a demonstration that the community supports the state or Tribal Nation receiving the grant; this may be a separate letter attached to the submission, and
9. if the CAR has previously received a Section 128(a) TAG, include a brief update on the previous project's status or successful completion.

---

<sup>31</sup> If a CAR plans to use a contractor or provide a subaward, the CAR will have to follow EPA's general procurement terms and conditions, as well as any relevant state or tribal requirements.

## **APPENDIX B: SAMPLE SECTION 128(a) FUNDING REQUEST FORM**

The optional, sample form below for requesting FY25 Section 128(a) funding is provided for convenience, and CARs who do not use this form will not be penalized for providing the information in a different format.

**EPA Regions and CARs should work together to be sure CARs are providing sufficient information for their funding request and may alter this sample form to memorialize those communications. EPA may request additional information, if it is deemed appropriate to fully understand a CAR's funding request.**

**FUNDING REQUEST**  
**CERCLA Section 128(a) State and Tribal Response Program**  
**CFDA: 66.817**

**Federal Fiscal Year (FY) 2025 Request for Funding**  
**Period of Performance:** [Month, Day, Year] through [Month, Day, Year]  
**New or Existing Cooperative Agreement:** [if existing, include the cooperative agreement number]

- 1. State or Tribal Response Program to which the funds will be applied:**
  
- 2. Response Program Point of Contact:**
  
- 3. Total Amount Requested (fill out 1.a. and 1.b., OR just 1.c.):**
  - a. Annual Appropriation Funding Request:**
  - b. BIL Funding Request:**
  - c. Unspecified Funding Request:**
  
- 4. Do you plan to include CERCLA Section 128(a) funding in Performance Partnership Grant? Yes**   
No 
  - a. If yes, you must provide a specified request above in fields 1.a. and 1.b.**
  
- 5. Provide an overall basis for this funding request, including, if applicable, any planned collaborative projects with other federal agencies, new activities, or enhancements to the response program. CARs who do not have an MOA with EPA should provide an explanation of how your program includes, or is taking reasonable steps to include, the four elements described in Section V. of the funding guidance. As noted in Section VII.H., this demonstration of the four elements will be part of the final workplan negotiation process:**
  
- 6. How will the requested funding affect underserved communities and/or disadvantaged communities (as identified by [CEJST](#))? If appropriate, provide names and locations of sites, information about the communities, etc., to support your request. If known, provide the percentage of site-specific work that will benefit underserved communities and/or disadvantaged communities.**



7. **Demonstration of significant utilization of prior years' funding.** CARs that received Section 128(a) funds prior to FY24 (funds from FY23 or older) must provide an explanation and justification of funds that remain unspent:

8. **Programmatic Capability – [Only Include if Specifically Requested by Region]:**

9. **Please update the table to provide enough detail to inform EPA how the CAR proposes to spend FY25 Section 128(a) funds:**

<b>FUNDING USE</b>	<b>FY25 REQUEST</b>	<b>DETAILED SUMMARY OF INTENDED USE</b> <i>(Example activities included below for reference; CARs are expected to edit this column prior to submitting their request.)</i>
<p><b>Establish or enhance the four elements:</b></p> <ol style="list-style-type: none"> <li>1. Timely survey and inventory of brownfields sites.</li> <li>2. Oversight and enforcement authorities or other mechanisms.</li> <li>3. Mechanisms and resources to provide meaningful opportunities for public participation.</li> <li>4. Mechanisms or approval of a cleanup plan and verification and certification that cleanup is complete.</li> </ol>	<p>\$XX,XXX</p>	<ol style="list-style-type: none"> <li>1. Examples: <ul style="list-style-type: none"> <li>• inventory and prioritize brownfield sites</li> <li>• develop or improve Institutional Controls/Engineering Controls tracking and SOPs</li> </ul> </li> <li>2. Examples: <ul style="list-style-type: none"> <li>• develop/enhance ordinances, regulations, and procedures for response programs</li> </ul> </li> <li>3. Examples: <ul style="list-style-type: none"> <li>• develop a community involvement process</li> <li>• build up community outreach and participation</li> <li>• issue public notices of site activities</li> <li>• develop a process to seek public input from local communities, especially communities with environmental justice concerns, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged, or remote areas, and communities with limited experience working with government agencies to prioritize sites to be addressed</li> <li>• digitize response program records for easier public access</li> </ul> </li> </ol>

		<p>4. Examples:</p> <ul style="list-style-type: none"> <li>• develop/update cleanup standards</li> <li>• review cleanup plans and verify completed actions</li> <li>• build the capacity and process to verify that an assessment or cleanup was done properly and include documentation in the public record</li> </ul>
<b>Establish and maintain the public record</b>	\$XX,XXX	<p>Examples:</p> <ul style="list-style-type: none"> <li>• maintain public record</li> <li>• create web site for public record</li> <li>• disseminate public information on how to access the public record</li> </ul>
<b>Enhance the response program</b>	\$XX,XXX	<p>Examples:</p> <ul style="list-style-type: none"> <li>• provide oversight of site assessments and cleanups</li> <li>• attend training and conferences on brownfields cleanup technologies &amp; other brownfields topics</li> <li>• update and enhance program management activities</li> <li>• negotiate/oversee contracts for response programs</li> <li>• enhance program management &amp; tracking systems</li> <li>• Brownfields mentoring and training / succession-planning</li> <li>• develop or improve electronic document management system</li> <li>• <i>[even if response programs have MOAs with EPA, examples provided above in the 4 elements section may also be helpful if those aspects of the program need enhancing]</i></li> </ul>
<p><b>Site-specific activities</b></p> <p><i>[CAR may conduct assessments or cleanups at sites that meet the definition of a brownfield site at CERCLA Section 101(39)].</i></p>	<p>\$XX,XXX</p> <p><i>[Amount requested for site-specific assessments and cleanups may not exceed 75% of the total amount of Section 128(a) funding awarded to the CAR during FY 2024. Oversight of assessment and cleanup activities performed by</i></p>	<p>Examples:</p> <ul style="list-style-type: none"> <li>• perform site assessments and cleanups</li> <li>• develop QAPPs</li> <li>• establish eligibility of target sites</li> <li>• prepare Property Profile Forms/input data into ACRES database for these sites</li> </ul>

	<i>responsible parties (other than the state or Tribal Nation) does not count toward the 75% limit. The 75% cap also does not include personnel or supplies/equipment purchased in support of site-specific work.]</i>	
<b>Total funding</b>	<b>\$XXX,XXX</b>	