



Tribal TAB Program

*Providing “Technical Assistance
to Brownfields” to all U.S.
Federally Recognized Tribes!*



CERCLA 128(a): Tribal Response Program (TRP)

How do I
“Establish” a TRP
and Why?

Tier 1: Module 2

How Do We Start a TRP?

Where do we start?

Can I cleanup a "Brownfield" right away?



Can you help me
find my bone?

What does “establish” mean?

"establish" includes activities necessary to build the foundation for the four elements of a tribal response program and the public record requirement.

EPA Goals:



- 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 and a “public record.”
- The secondary goal is to provide funding for other activities that increase the number of response actions conducted or overseen by a state or tribal response program.

Therefore: *EPA priorities for the first year of a new program will include:*

- ✓ *Establishing the Public Record
(required by the Law)*
- ✓ *Begin the Brownfield Survey & Inventory
(Element 1)*

Who is the Grantee?

A CERCLA Section 128(a) grant is a cooperative agreement with a tribe. The cooperative agreement recipient is the tribal government to which a grant is awarded and which is accountable for the use of the funds provided.

EPA will accept only one application from each eligible tribe.

Who gets the Funding?

- Tribes must define in their work plan the "Section 128(a) response program(s)" to which the funds will be applied;

and

- When EPA funds the Section 128(a) grant, the Tribe may distribute these funds among the appropriate tribal agencies that are part of the Section 128(a) response program.

EPA: Why a 128(a) Grant?

- Is this the right grant program to address specific tribal issues or problems?*
- Are you establishing a new tribal program or enhancing an existing program?*
- What program(s) or component(s) of the tribe will receive the grant funds?*
- Who will the primary point of contact for negotiations on the proposed grant work plan?*

EPA: Why a 128(a) Grant?

- What program or component of the tribe will have the primary responsibility for grant reporting and budget management?*
- Will this be a component of a Performance Partnership Grant (PPG)?*
- Would it be more practical to be part of a TRP consortium?*

EPA Questions for New 128(a) TRP Grantees

Funding Request:

a. Describe your plan to establish a response program, why it is a priority for your tribe, and why CERCLA 128(a) funding will be beneficial to your program.

(If your tribe is already supported by a tribal consortia receiving CERCLA 128(a) funding, explain why additional resources are necessary.)

EPA Questions for New 128(a) TRP Grantees

Funding Request:

b. Prepare a draft work plan and budget for your first funding year. The funding requested should be reasonably spent in one year.

(For budget planning purposes, it is recommended that you assume funding sufficient to support 0.5 staff to establish a response program and some travel to attend regional and national trainings or events.)

EPA Questions for New 128(a) TRP Grantees

Programmatic Capability.

- a. 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.
- b. 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.

EPA Questions for New 128(a) TRP Grantees



Programmatic Capability.

c. Discuss how this response program fits into your current environmental program(s). If you don't have an environmental program, describe your process to develop, or interest to start one.

d. Describe if you have had adverse audit findings. If you had problems with the administration of any grants or cooperative agreements, describe how you have corrected, or are correcting, the problems.

**Don't let the
situation
confuse you...**

**Go thru the
steps:**



Step 1: Talk to EPA

Determine if the 128(a) Tribal Response Program grant is the appropriate program to address specific tribal environmental problems or issues.

How?

- Read the Annual U.S. EPA State and Tribal Response Program Guidance
- Attend training and workshops
- Talk to Tribes with the TRP
- Ask questions!



Step 2: Assess your Tribe's needs and how it can utilize the TRP



*Identify
your most
obvious
problems
&
priorities*



Tribal Self Assessment Topics

- A) What issues or problems is the tribe seeking to address through this grant program?
- B) Are the problems or issues to be addressed a singular or short term problem or will they be long term or on-going problems?
- C) What existing tribal laws, codes or policies are in place to address the problems?
- D) What existing tribal programs are in place to address the problems?
- E) What are the tribe's priorities and goals?

A) Brownfield Problems to Address

- Existing known brownfield sites/properties?
- Are there sites/buildings the tribe wishes to reuse or redevelop that may have potential contamination issues from past uses or age?
- Existing problems related to controlled substances? (e.g. Meth)
Existing problems from “mine scarred lands”?
- Other known or potential sources of releases of hazardous substances, pollutants or contaminants, including petroleum releases?

A) Brownfield Problems to Address (cont.)

- *Potential future brownfields (aging or obsolete buildings, industry or businesses) ?*
- *Current or future commercial, industrial or energy development that may result in the release of contaminants?*
- *Incidents from transportation related releases? (Trucks, railroad, etc.)*
- *Past or current open dumping problems or land fill sites?*
- *Lack of Tribal authority via tribal codes or laws in place to assert tribal authority over a cleanup process?*
- *Other local state or federal agency remediation activities (i.e. EPA, DOD or DOE)?*

B) Short or Long-Term Brownfield Problems?

Are there existing and on-going problems with releases from other sources:

- *Drug labs?*
- *Commercial sources?*
- *Industrial sources?*
- *Transportation sources?*
- *Oil & Gas development?*
- *Mine scarred lands?*
- *Other?*

B) Alternative Solutions?

Are there only a few existing brownfields that could be:

- *assessed via the EPA and/or State Targeted Brownfield Assessment (TBAs) programs?*
- *assessed and cleaned up via the EPA 104(k) Brownfield Grants program?*
- *Addressed in other ways?*

C) Review of Tribal Laws & Codes

- *Is the Tribal jurisdiction clear and what does it cover?*
- *What Tribal authorities exist or are needed?*
- *Existing Tribal laws/codes that may be relevant, or gaps? (solid waste, hazardous waste, UST/LUST, water quality, air quality, and others);*
- *Existing Tribal civil compliance and enforcement authorities & processes in place?*
- *Existing MOAs or MOUs in place that address any of the issues?*

C) Review of Tribal Laws & Codes

- Have Tribal laws/code(s) been properly adopted or formally entered into the tribal laws and records?
- Tribal criminal code applicable? (usually enforced by Tribal or BIA police).
- Existing relevant policies and/or council resolutions?

{NOTE: “do not know” is OK}

D) Review of Tribal Programs

- Existing tribal programs that may be relevant? (i.e. UST, solid waste, emergency response, homeland security, housing and others)
- Current staff training, skills and knowledge?
- Where will the TRP fit into the Tribal or Env. program(s)?
- Existing administrative support and/or facilities?
- Other coordination agreements or arrangements that may be relevant?

E) Tribal Priorities

- *Immediate threats to public health;*
- *Immediate threats to the environment;*
- *Long term threats to public health or the environment;*
- *Impacts on cultural resources;*
- *Impacts on the local economy;*
- *Impacts on long term economic development;*
- *Impacts on the local quality of life;*

E) Tribal Priorities

- Tribal capacity to deal with environmental problems, current or future;
- Tribal capacity to deal with emergency responses to releases, current or future; or
- Tribal capacity to coordinate or interact with response actions by other programs or agencies.

NOTE: Is there an existing tribal process to review and establish program priorities?

Step 3: Discuss review results with EPA

*First time 128(a) TRP grant requestors are strongly encouraged to contact their Regional Brownfields Coordinator **prior** to submitting their funding request.*

Be prepared to provide information from your review for a first time 128(a) funding request.

Moving Ahead:

- Know “where you are at”*
- Know where you want to go*
- Review & establish priorities*
- Use review to generate Grant Work Plan*
- Do periodic reviews to keep on track*
- Update plans and priorities as needed*

Tribal TRP Accomplishments

- *Many Tribes have received 128(a) TRP Grants*
- *Many Brownfield Sites inventoried*
- *Many sites assessed and cleaned up*
- *Emergency Response capabilities improved*
- *Tribal staff knowledge increased*
- *Community knowledge increased*
- *Input into other agency actions improved*
- *Several Consortiums formed (AK)*

NOTE: Not ALL tribes need a 128(a) TRP Grant to do these things

Lessons Learned


- Understanding what the program is about and being sure this is an appropriate program for the tribe(s).
- Determining if another program or grant, or other resource would solve the problem the tribe is seeking to address.
- Understanding the program staffing and resource needs and developing position description(s) that fit the program and have the appropriate qualifications.
- Implementing environmental civil compliance and enforcement on a Reservation is a new experience for many Tribes.

Tribal Issues:

- *Management of grant funds and budgets for new types of activities and equipment;*
- *Contracting for new types of services;*
- *Staffing (recruiting, turnover, support staff, etc.);*
- *Qualification and training of staff;*
- *Overlap and/or coordination with other programs;*
- *Lack of necessary tribal laws, codes, procedures and policies.*

Be determined in achieving your goals...






TAB

TECHNICAL ASSISTANCE TO BROWNFIELDS

KANSAS STATE

UNIVERSITY

Aim High





Try to See Eye-to-Eye



*Be a
Good
Team
Mate*



*Advice
from
TRP
Coordinators*



Resources:

- ❖ Use the “Brownfield Forum” to seek answers to questions and advice of other tribes and/or KSU staff. The Tribal Brownfields Forum is an online platform for connecting brownfields and contaminated-sites staff and professionals from Tribal areas: www.tribalbrownfields.org
- ❖ KSU TAB Assistance to Tribes: No application process, just contact us!
<https://www.ksutab.org/services/ksu%20tribal%20tab%20program>
- ❖ Annual EPA 128(a) Program Guidance

Was this helpful to you in understanding the TRP?

Please let us know and also let us know if there are other topics you would like to have addressed!

*Please provide feedback to:
KSU-Tribal TAB at chsr@ksu.edu*



END

Establishing a TRP

Tier 1
Module 1-2

