

ECRG Round 2 Eligibility Self-Check Tool
Updated on September 13, 2023

The Equitable Community Revitalization Grant (ECRG) Eligibility Self-Check Tool is designed to help an applicant determine if they are eligible for ECRG. Eligibility questions are followed by supplemental information for Question I - Property Owner Responsibility for Contamination. The Eligibility Self-Check Tool outlines the information and documents needed for the ECRG Application. The information on this form may generally be used as foundation for the ECRG Application.

The ECRG Eligibility Self-Check Tool provides a strong informational basis for free assistance discussions with the Department of Toxic Substances Control's (DTSC) Brownfield Technical Assistance Provider (B-TAP), the Center for Creative Land Recycling (CCLR).

The ECRG Eligibility Self-Check Tool is not a formal part of the application process. It is designed solely for application preparation and will not be submitted to DTSC.

*Applicants should use the ECRG Eligibility Self-Check Tool to determine if each parcel of the Site (or Sites for a **Community-wide Assessment** that requires a minimum of three eligible sites) is eligible for ECRG.*

For more information on ECRG, free tools, and resources available, please visit our [website](#).

Applicant: _____

Site(s) Address: _____

Grant Types:

- Community-wide Assessment** **Site-specific Investigation** **Site-specific Cleanup**

Descriptions of the available grants are posted on [DTSC's ECRG webpage](#).

Review the instructions to answer the eligibility questions below.

- **If all responses are YES, your application will likely be eligible for ECRG.**
- **If you answer NO to any questions, then your application may not be eligible for ECRG.**
- **If you are unsure of any questions, please contact CCLR at ecrg@cclr.org.**

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Eligibility Question & Applicable Guideline Section	Response	Required Documents in Application
<p>A. Applicant Eligibility – Section 2.1:</p> <p>A.1. Is the applicant a public entity, nonprofit, or tribe?</p> <p>A.2. Does the applicant own the Site or have documentation demonstrating the applicant has access to the Site to conduct proposed ECRG Tasks (e.g., Site Access Agreement or letter signed by the owner) ?</p> <p>A.3. If an applicant received an ECRG Award during Round 1, will invoices totaling at least 70% of each ECRG Award be submitted to DTSC for reimbursement by the time the application is submitted?</p>		<ol style="list-style-type: none"> 1. Proof of 501 (c) (3) status for nonprofits 2. Grant deed(s) for each parcel included in the site (all applicants) 3. Site map showing each parcel and site boundary (all applicants) 4. Site photographs (all applicants) 5. Site Access Agreement or other document, signed by the owner, that demonstrates applicant has access to the Site to conduct proposed ECRG Tasks (if applicant does not own site) 6. Owner Attestation Form (for Site-specific Investigation applicants who do not own the Site) 7. Applicant organizational chart (if applicable) 8. Applicant Board Names (if applicable)

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<p>B. Site Eligibility – Section 2.2 and 2.3:</p> <p>B.1. Does the Site meet the definition of a brownfield?</p> <p>B.2. Site is not:</p> <ul style="list-style-type: none"> ● controlled and owned by the State of California ● controlled and/or owned by the federal government ● subject to ongoing United States Environmental Protection Agency (USEPA) removal actions ● subject to an active enforcement order from DTSC or Local Oversight Agency ● subject to a Regional Water Quality Control Board (Regional Board) Cease and Desist Order (Water Code §13301) or a Cleanup and Abatement Order (Water Code §13304) ● listed or proposed for listing on the USEPA National Priorities List ● subject to a Resource Conservation and Recovery Act (RCRA) permit ● subject to a DTSC Hazardous Waste Facility Permitting Program permit established under Chapter 6.5 of California Health and Safety Code and RCRA authorization or related authority 		

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<p>C. Regulatory Oversight – Section 2.6: [not required for Community-wide Assessments]</p> <p>C.1. Does one of the following describe regulatory oversight at the Site?</p> <ul style="list-style-type: none"> • Applicant is named on a voluntary agreement with DTSC. OR • Applicant is named on a Regional Board or Local Oversight Agency voluntary agreement or Regional Board investigatory order (issued under Water Code §13267), AND the respective agency has issued an “ECRG Project Suitability Letter.” OR • Applicant is a tribe and either has tribal environmental oversight agency or is willing to engage with state or local environmental oversight agency. Contact DTSC for assistance on Tribal oversight agency criteria. <p>C.2. If applying for Site-specific Cleanup, does the applicant have a cleanup plan which has been reviewed by a regulatory agency?</p>		<p>Link to DTSC voluntary agreement on EnviroStor OR ECRG Project Suitability Letter for Regional Board/Local Oversight Agency voluntary agreement or Regional Board investigatory order OR Contact DTSC for assistance.</p>
<p>D. CalEnviroScreen (CES) 4.0 Score - Section 2.2</p> <p>D.1. Is one of the following true for the Site?</p> <ul style="list-style-type: none"> • CES 4.0 Score is 75% or greater. OR • CES Poverty Percentage is 50% or greater. OR • The reuse is for 100% affordable housing, and can include supportive services, that meets the Low-income Housing Tax Credit requirement where 40% of the units are at or below 60% Area Median Income (AMI) and may have units up to 80% AMI, if the average is at or below 60% AMI OR • Tribal uses 		

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<p>E. Reuse – Section 2.4 and 3.4.10:</p> <p>E.1. The goal of ECRG is to provide benefits to disadvantaged or vulnerable communities. Does the applicant agree the proposed reuses for the Site do not include the following?</p> <ul style="list-style-type: none"> a. Warehouse or distribution center b. Use that has the potential to cause pollution or contamination and negatively impact the neighborhood c. 100% market rate housing d. Mixed income housing that does not meet the Low-Income Housing Tax Credit requirement where 40% of the units are at or below 60% area median income (AMI) and may have units up to 80% AMI, if the average is at or below 60% AMI <p>E.2. Cleanup approach for sites planned for housing, schools, hospitals, health clinics, or day care centers, should not require the use of land use covenants, deed restrictions and/or long-term operation and maintenance for future use. For these sites, DTSC recognizes that the cleanup may not be completed within the two-year ECRG Agreement. However, ECRG could fund the initial two years of cleanup implementation.</p>		
<p>F. Community Engagement – Section 3.4.9</p> <p>F.1. Has the applicant conducted, or will the applicant continue to conduct, meaningful community engagement as part of ECRG Tasks that meets or exceeds the following minimum requirements? ECRG is using the language of the Spectrum of Public Participation to assess the level of public engagement.</p> <ul style="list-style-type: none"> • For a Community-wide Assessment, the minimum required level is “Consult” for which the goal is “To obtain feedback on analysis, alternatives, and/or decisions.” <p align="center">OR</p> <ul style="list-style-type: none"> • For a Site-specific Investigation or Site-specific Cleanup, the minimum required level is “Involve” for which with the goal is “To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.” 		

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<p>G. Community Benefit Commitments – Section 3.4.11</p> <p>G.1. Does the applicant agree to commit to implement community benefit commitments as described below?</p> <ul style="list-style-type: none"> • For a Community-wide Assessment, the applicant agrees to commit to one (1) community benefit commitment and corresponding metrics. OR • For a Site-specific Investigation, the applicant agrees to commit to two (2) community benefit commitments and corresponding metrics. OR • For a Site-specific Cleanup below \$5 million, the applicant agrees to commit to two (2) community benefit commitments and corresponding metrics. OR • For a Site-specific Cleanup at or exceeding \$5 million, the applicant agrees to commit to three (3) community benefit commitments and corresponding metrics. <p>Applicant may select from the following list of community benefit commitments:</p> <ul style="list-style-type: none"> • Increase local ownership • Increase local and/or living wage hiring • Provide financial contributions to expand community benefits • Promote local enterprises through contracting practices • Build and/or provide access to green infrastructure • Build or rehabilitate affordable housing • Build or increase access to green spaces • Offer community serving programs and services • Promote environmental justice • Execute a community benefits agreement • Provide safe and accessible mobility options 		

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<p>H. Attestations Regarding Contamination – Section 3.4.15:</p> <p>Can applicant respond “yes” to all the following?</p> <ol style="list-style-type: none"> 1. Does the Applicant attest that the Signatory is an authorized representative of the Organization and certifies to the best of their knowledge and belief that the information contained in this Application, including any attachments, is true and complete and accurately describes the Applicant, the Site(s), and related conditions? 2. Does the signatory affirm that the Applicant will ensure both the Applicant and all Site owners (as applicable) comply and will continuously comply with all California conflict of interest laws during the ECRG funding period, including, but not limited to, Cal. Gov. Code sections 1090, 81002(c), 82048, and 87100 et. seq. 3. Does the Applicant understand that failure to provide true and correct information, making false statements or withholding facts could subject the Applicant to penalties, including but not limited to, repayment of the entire grant regardless of whether any amount has been used toward the purpose of the grant? 4. Does the Applicant agree to abide by the ECRG Agreement if awarded? Any Community Benefit Commitments will be included in the ECRG Agreement. 5. Does the Applicant understand that the ECRG Agreement terms and conditions are non-negotiable? 6. Does the Applicant agree to promptly inform DTSC of any changes that occur in the information contained in this Application? 7. Does the Applicant recognize that DTSC must comply with the California Public Records Act (PRA) (Gov. Code section 7920.000 et seq.), which may require DTSC to release information regarding this Application or Site(s) in response to PRA requests that DTSC receives from the public, and that DTSC will protect the confidentiality of “personal information” provided in this Application only to the extent authorized by law and necessary to accomplish a lawful purpose of DTSC? 8. Does the Applicant consent that DTSC has the right to distribute, transmit, publish, or copy, in any medium, either in whole or in part: information, photographs, or drawings DTSC obtains pursuant to ECRG for any use, including, but not limited to, project documentation, public outreach, web and social media content, and marketing materials? 		

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<p>9. Does the Applicant attest that the Applicant did not cause or contribute to any contamination at the Site; that Applicant is not affiliated, as defined in CERCLA [Comprehensive Environmental Response, Compensation, and Liability Act], with any entity that caused or contributed to contamination at the Site; and that the Applicant meets the requirements for continuing obligations based on their specific CERCLA defense, or that the Applicant is not required to provide a CERCLA Liability Defense, as is the case for CWAs and tribes for Sites they own?</p>		
<p>I. Property Owner Responsibility for Contamination: [not required for Community-wide Assessments or for Tribes that own the Site]</p> <p>I.1. Is one of the following true based on Table 1 - Applications Requiring CERCLA liability defense for eligibility, below?</p> <ul style="list-style-type: none"> • Applicant is NOT REQUIRED to provide a CERCLA liability defense. OR • Applicant is NOT REQUIRED to provide a CERCLA liability defense; but is required to provide a signed Owner Attestation Form, see form for detailed attestations. OR • Applicant is REQUIRED to provide a CERCLA liability defense and is able to provide supporting documentation. OR • Applicant is REQUIRED to provide a CERCLA liability defense for the current owner and is able to provide supporting documentation, including a signed Owner Attestation Form, see form for detailed attestations. 		<p align="center">Owner Attestation Form</p> <p align="center">OR</p> <p align="center">Phase I Environmental Site Assessment, consistent with All Appropriate Inquiries (40 Code of Federal Regulations part 312, for bona fide prospective purchaser, contiguous property owner, or innocent landowner defense)</p> <p align="center">OR</p> <p align="center">Other documentation related to CERCLA Liability Defense</p>

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Table 1 - Applications Requiring CERCLA Liability Defense for Eligibility

	Site-specific Investigation	Site-specific Cleanup
Applicant is Owner ¹	CERCLA Liability Defense REQUIRED (See supplemental information for Question I)	CERCLA Liability Defense REQUIRED (See supplemental information for Question I)
Applicant is Not Owner	Owner Attestation Form is Required (CERCLA Liability Defense NOT REQUIRED)	CERCLA Liability Defense REQUIRED FOR CURRENT OWNER (See supplemental information for Question I)

¹Tribes are exempt from the requirement to demonstrate a CERCLA Liability Defense for sites they own.

Eligibility Question	Response	Required Documents in Application
<p>H. Equity in Contracting</p> <p>J.1. Does the applicant have practices in place to ensure fair market costs through a competitive procurement process for contracts over \$10,000?</p> <p>J.2. Does the applicant's organization contracting policy require diverse suppliers be considered and does the applicant intend to contract with diverse suppliers?</p> <p>J.3. These funds are public funds from the State of California; therefore, will all of Applicant's applicable contracts meet prevailing wage and public works requirements, under Labor Code § 1720 et seq.?</p>		

Supplement for ECRG Round 2 Eligibility Self-Check Tool Question I Property Owner Responsibility for Contamination Draft – September 13, 2023

Question I – Property Owner Responsibility for Contamination (NOT REQUIRED FOR COMMUNITY-WIDE ASSESSMENTS OR FOR TRIBES THAT OWN THE SITE)

Question I includes Table 1 – Applications Requiring a CERCLA Liability Defense for Eligibility. If Table 1 indicates the application will require a CERCLA liability defense for the applicant or current property owner, read carefully to determine how to do so.

Additional resources on CERCLA liability are listed below:

- United States Environmental Protection Agency (US EPA) [Superfund Landowner Liability Protections](#) webpage
- US EPA Fact Sheet - [EPA Brownfields Grants, CERCLA Liability, and All Appropriate Inquiries](#)
- US EPA Rule - [Standards and Practices for All Appropriate Inquiries](#), Federal Register, dated December 15, 2022
- US EPA Webpage - [Common Elements and other Landowner Liability Guidance](#) webpage
- US EPA Memorandum - [Superfund Liability Protections for Local Government Acquisitions after the Brownfields Utilization, Investment, and Local Development Act of 2018](#), dated June 15, 2020

SITE-SPECIFIC INVESTIGATION AND SITE-SPECIFIC CLEANUP - Applicant Is the Site Owner

For **Site-specific Investigation** and **Site-specific Cleanup** grant applications, applicants that own the Site must not be liable under CERCLA for contamination at the Site or must be exempt from meeting the requirements by asserting an affirmative defense to CERCLA liability.

Typically, this is done by establishing that they are an innocent landowner, contiguous property owner, bona fide prospective purchaser, or a public entity that either acquired the property before 2002 or acquired the property by virtue of its function as sovereign, such as through bankruptcy, tax delinquency or abandonment, by exercising eminent domain power, or other sovereign authority.

Applicants must demonstrate a CERCLA liability defense for the Site. CERCLA liability defense alternatives are summarized in Table 2 – CERCLA Liability Defense Alternatives (below).

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**TABLE 2
CERCLA LIABILITY DEFENSE ALTERNATIVES (MUST MEET ONE)**

1. EXEMPTION FOR CERTAIN PUBLICLY OWNED BROWNFIELD SITES [CERCLA § 104(k)(3)(E)] (Public Entity only):
 - a. Public Entity acquired ownership of the Site on or before January 11, 2002.
 - b. Applicant attests that the Public Entity did not cause or contribute to any releases or threatened releases of hazardous substances at the Site.
 - c. Applicant shall provide date that Public Entity acquired the Site (date of grant deed recordation or date the public entity acquired the Site).
 - d. Applicant shall provide proof of current Site ownership (a copy of the grant deed or other documentation showing date of acquisition).
2. EXEMPTION FOR PUBLIC ENTITY ACQUISITION BY VIRTUE OF FUNCTION AS SOVEREIGN OR LIABILITY PROTECTION FOR INVOLUNTARY TRANSFER [CERCLA § 101(20)(D)] (Public Entity only):
 - a. Public Entity acquired ownership or control of the Site through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment, or other circumstances by virtue of its function as sovereign.
Function as sovereign applies when a local government acquires title to a property via a function that can only be effectively performed by governments using a mechanism only available to governments. This includes sites acquired because of California's 2012 dissolution of redevelopment agencies if the Site was transferred to the public entity by virtue of its function as sovereign.
 - b. Applicant shall describe the circumstances under which the Site was acquired by the Public Entity.
 - c. Applicant attests that the Public Entity did not cause or contribute to any releases or threatened releases of hazardous substances at the Site.
 - d. Applicant shall provide date that Public Entity acquired the Site (date of grant deed recordation or date the public entity acquired the Site).

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**TABLE 2
CERCLA LIABILITY DEFENSE ALTERNATIVES (MUST MEET ONE)**

3. Applicant shall provide proof of current site ownership (a copy of the grant deed or other documentation showing date of acquisition). BONA FIDE PROSPECTIVE PURCHASER [CERCLA §§ 101(40)(A)(i)(I)]:
 - a. Owner acquired ownership of the Site after January 11, 2002.
 - b. Owner conducted all appropriate inquiries (AAI) within one year of purchase, and updated the following items within 180 days prior to acquiring ownership of the Site as set forth in CERCLA § 101(40)(B)(ii) and 40 CFR § 312:
 - i. Interviews of current and past owners
 - ii. Review of government records
 - iii. On-site visual inspection
 - iv. Searches for environmental cleanup liens
 - c. Applicant shall provide date of final or updated Phase I Environmental Site Assessment Report.
 - d. Applicant shall identify which of the following ASTM Standards was used to prepare the Phase I Environmental Site Assessment Report:
 - i. ASTM E1527-97 (effective for BFPP 1/11/2002 through 11/1/2006)
 - ii. ASTM E1527-00 (effective 6/9/2003 through 11/1/2006)
 - iii. ASTM E1527-05 (effective 11/1/2006 through 10/6/2015)
 - iv. ASTM E1527-13 (effective 12/30/2013 through 2/13/2024)
 - v. ASTM E1527-21 (effective 12/13/2023)
 - vi. ASTM E2247-08 – Forestland or Rural Property (effective 3/23/2009 through 3/14/2018)
 - vii. ASTM E2247-16 – Forestland or Rural Property (effective 3/14/2018)
 - e. Owner complies with criteria to demonstrate “No affiliation” set forth in CERCLA § 101(40)(B)(viii).
 - f. Owner complies with criteria for continuing obligations set forth in CERCLA § 101(40)(B) and CERCLA § 107(r)(1).
 - g. Applicant shall provide date that owner acquired the Site (date of grant deed recordation or date the public entity acquired the Site).
 - h. Applicant shall provide proof of current site ownership (a copy of the grant deed or other documentation showing date of acquisition).
 - i. Applicant shall provide a copy of the final or updated Phase I Environmental Site Assessment Report, signed by a qualified environmental professional, consistent with AAI.

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**TABLE 2
CERCLA LIABILITY DEFENSE ALTERNATIVES (MUST MEET ONE)**

4. CONTIGUOUS PROPERTY OWNER [CERCLA §§ 107(q)(1)]: Contiguous property owners are persons who own a site that is contiguous or otherwise similarly situated to a facility that is the only source of contamination found on the Site.
- a. Owner did not know or have reason to know that the Site was or could be contaminated by a release or threatened release of one or more hazardous substances from other real property not owned or operated by applicant [CERCLA § 107(q)(1)(A)(viii)(II)].
 - b. Owner conducted AAI into the previous ownership and uses of the Site in accordance with generally accepted good commercial and customary standards and practices prior to acquiring ownership of the Site as set forth in CERCLA § 107(q)(1)(A)(viii).
 - c. Applicant shall describe AAI conducted by owner prior to acquiring parcels comprising the Site and how it met the due diligence customary at the time of acquisition, include any ASTM Standard used.
 - d. Applicant shall provide date of AAI document.
 - e. Owner complies with criteria for "No affiliation" set forth in CERCLA § 107(q)(1)(A)(ii).
 - f. Owner complies with criteria for continuing obligations set forth in CERCLA § 107(q)(1)(A).
 - g. Applicant shall provide date that Owner acquired the Site (date of grant deed recordation or date the public entity acquired the Site).
 - h. Applicant shall provide proof of current Site ownership (a copy of the grant deed or other documentation showing date of acquisition).
- Applicant shall provide a copy of the AAI document.
5. INNOCENT LANDOWNER [CERCLA § 101(35)(A)(i)]: Innocent landowners are persons who can demonstrate, among other requirements, that they "did not know and had no reason to know" prior to purchasing a property that any hazardous substance that is the subject of a release or threatened release was disposed of on, in, or at the Site.
- a. Owner did not know and had no reason to know prior to purchasing the Site that any hazardous substance that is the subject of a release or threatened release was disposed of on, in, or at the Site.
 - b. Owner conducted AAI into the previous ownership and uses of the Site in accordance with generally accepted good commercial and customary standards and practices prior to acquiring ownership of the Site as set forth in CERCLA § 101(35)(A)(i) and (B)(i).
 - c. Applicant shall describe AAI conducted by owner prior to acquiring parcels comprising the Site and how it met the due diligence customary at the time of acquisition, include any ASTM Standard used.
 - d. Applicant shall provide date of AAI document.
 - e. Owner complies with criteria for innocent landowners set forth in CERCLA § 101(35)(A) and § 101(35)(B), including the continuing obligations required for the innocent landowner defense.
 - f. Owner complies with criteria for the innocent landowner third-party defense requirements (due care and precautions against foreseeable acts), set forth in CERCLA § 107(b)(3).
 - g. Applicant shall provide date that Owner acquired the Site (date of grant deed recordation or date the public entity acquired the Site).
 - h. Applicant shall provide proof of current Site ownership (a copy of the grant deed or other documentation showing date of acquisition).
 - i. Applicant shall provide a copy of the AAI document.

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SITE-SPECIFIC INVESTIGATION - Applicant Is NOT the Site Owner

Site-specific Investigation Applicants who do not own the Site will provide a signed [Owner Attestation Form](#), see form for detailed attestations.

SITE-SPECIFIC CLEANUP – Applicant is NOT the Site Owner

For a **Site-specific Cleanup** on a Site not owned by the applicant, the current owner must be able to demonstrate an affirmative defense to CERCLA liability. Applicants must demonstrate owner's CERCLA liability defense for each parcel within the Site. Applicants must provide (1) a signed [Owner Attestation Form](#) (see form for detailed attestations), and (2) demonstrate one of the five listed CERCLA liability defenses for the Site listed in Table 2, above.

NOTE: DTSC may request the following information as part of the application:

1. Whether the owner is a public entity, nonprofit, tribe, small business owner, or private entity
2. Applicant's relationship to the owner
3. Applicant's current and future interest in the Site, such as applicant's plans to purchase, lease, or resell the Site, etc.
4. If the owner is financially solvent and able to pay for the cleanup.

Required Documents and Information to Demonstrate Eligibility

Lists of documents and information required to demonstrate eligibility are provided below.

Required Documents:

1. Proof of 501(c)(3) status for nonprofits
2. Grant deed(s) for each parcel included in Site(s) (all applicants)
3. Site map showing each Site and associated parcels (all applicants)
4. Site photographs (all applicants)
5. Site Access Agreement or other document, signed by the owner, that demonstrates applicant has access to the Site to conduct proposed ECRG Tasks (if applicant does not own Site(s))
6. Applicant organizational chart (all applicants)
7. Applicant Board Names (if applicable)
8. Link to DTSC voluntary agreement on EnviroStor OR ECRG Project Suitability Letter for Regional Board/Local Oversight Agency voluntary agreement or Regional Board investigatory order (**Site-specific Investigation** and **Site-specific Cleanup** applicants)
9. [Owner Attestation Form](#) (**Site-specific Investigation** if applicant does not own the site)
10. Phase I Environmental Site Assessment, consistent with AAI (40 Code of Federal Regulations part 312) for bona fide prospective purchaser, contiguous property owner, or innocent landowner defense
11. Documentation related to CERCLA Liability Defense (if required per Table 1)

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Required Information:

1. Contact information for the applicant team
2. Site information, including environmental history, regulatory information and environmental investigation and cleanup-related documents
3. ECRG implementation schedule
4. ECRG budget
5. Workplans and cleanup plans
6. Outreach and engagement efforts
7. Reimbursement request information for existing ECRG grantees