

OFFICE OF BROWNFIELDS

Department of Toxic Substances Control · Cleanup In Vulnerable Communities Initiative

ECRGenius Webinar #2

Eligibility: Ownership & Access, Regulatory Oversight, and ECRG Tasks

August 1, 2023



Meeting Guidelines

By participating in this meeting you understand that:

- This meeting is being recorded.
- You may be muted for background noise.
- The chat feature will be used to distribute information and accept feedback to be read during the Q&A period.

1. What was covered in last week's ECRGenius?
2. How to decide what grant to apply for?
3. What are the ownership & access requirements?
4. What are the CERCLA liability defense requirements?
5. How can you obtain regulatory oversight?
6. How can you design the ECRG Tasks & Budget?

What was covered in last week's ECRGenius #1?

Site Eligibility

1. Brownfield
2. Own or have access
3. Census tract where CES 4.0 Score is 75% or greater

If the CES 4.0 Score is less than 75%:

CES Poverty Percentile must be 50% or greater

OR

Reuse must be for 100% affordable housing and supportive services

Tribal uses are eligible regardless of the CES 4.0 Score

Applicant Eligibility

1. Public entity
2. Nonprofit with 501 (c) (3) status
3. Tribe, regardless of federal recognition
4. ECRGrantees who have expensed at least 70% of their current grant allocation

What is the “Site”?

- Applicant defines “Site”
 - Entire site must meet all eligibility criteria
 - Can be the eligible portion(s) of a broader development
 - No more than **two owners**
 - No more than **one CERCLA liability defense**

- Site name on the application should match what is on the Regulatory Oversight Agreement

Should you apply for investigation or cleanup?

- **Site-specific Cleanup** applications must have a cleanup plan submitted to or approved by their environmental regulatory agency
- If a cleanup plan has not been submitted, apply for a **Site-specific Investigation**
- If unsure – talk to your regulatory oversight agency
- Regulatory Oversight Agency will confirm in the [Project Suitability Letter](#) if Applicant is ready to prepare or implement a cleanup plan

What are the access and ownership requirements?

Guidelines Section 2.2:

- **Access:** Applicant must own the site or document access for two-year funding period

This applies to all parcels at a Site

Examples:

- Applicant provides grant deed naming Applicant as the owner for each parcel
- Applicant provides Purchase and Sale Agreement
- Applicant provides written Access Agreement

If there are more than two owners, separate ECRG applications need to be submitted

What is a CERCLA liability defense?

Guidelines Section 2.5:

“To be eligible for a **Site-specific Investigation** or **Site-specific Cleanup**, applicants must demonstrate that they are not in any way liable for any releases or threatened releases of hazardous substances at the site(s) under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or federal Superfund law).

The demonstration that a party is not responsible for the contamination as defined under CERCLA is referred to as establishing a “CERCLA liability defense”.

For **Site-specific Cleanup**, applicants must demonstrate that either they, or the owners, have a CERCLA liability defense.”

When is CERCLA liability defense required?

Guidelines Table 1 & ECRG Self-Check Tool

	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	Purchase Information or Owner Attestation Form is Required (CERCLA Liability Defense NOT REQUIRED)	CERCLA Liability Defense REQUIRED FOR OWNER (See supplemental information for Question I)

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

Is CERCLA liability defense required for all grants?

- **Community-wide Assessment** - No
- **Site-specific Investigations:**
 - Yes - for Applicants who own the site
 - No - for Applicants who do not own the site, but must provide an Owner Attestation Form
- **Site-specific Cleanups:** Yes - for the owner, whether it is an Applicant or not

Municipalities/Local Governments may have exemptions depending on how the site was acquired (i.e. involuntary acquisitions) - consult your legal counsel

Tribes that own sites never need a CERCLA Liability Defense

Do all parcels require a CERCLA Liability Defense?

If a CERCLA Liability Defense is required, it must be provided for each parcel

- Detailed explanations regarding CERCLA Liability Defense are provided in the [ECRG Self-Check Tool](#)

Who can provide environmental regulatory oversight?

- Required for **Site-specific Investigations** and **Site-specific Cleanups**
- Optional for **Community-Wide Assessments**
- Can be provided by:
 - DTSC
 - Regional Board
 - [Local Oversight Agency](#)
 - Tribe*
- If it is not DTSC, a [Project Suitability Letter](#) is required

DEADLINES FOR REQUESTING NEW OVERSIGHT AGREEMENTS

- DTSC – September 11, 2023 (Submit a Request for Agency Oversight application via [Fluxx](#))
- Regional Board – September 11, 2023
- Local Agency – Contact them directly, recommend no later than September 5, 2023

*Tribes conducting environmental oversight should meet with DTSC

What else do you need to know about regulatory oversight?

- Agreement must be voluntary; cannot be an order
 - DTSC, Standard Voluntary Agreement
 - Local Agency, Voluntary Remedial Action Agreement
 - Regional Board Cost Recovery Letter
 - Regional Board Section 13267 Order if approved by the Regional Board via [Project Suitability Letter](#)
- Regulatory oversight agreement must be in the applicant's name
- A copy of the voluntary agreement and [Project Suitability Letter](#) are required

What is the Project Suitability Letter?

Dear Ms. Tasnif-Abbasi:

I am writing on behalf of the [REGIONAL BOARD REGION/LOCAL OVERSIGHT AGENCY], which is currently overseeing [INVESTIGATION AND CLEANUP/INVESTIGATION/CLEANUP] at [ADDRESS] (Site), to express support for the [NAME OF APPLICANT]'s grant application. The [REGIONAL BOARD REGION/LOCAL OVERSIGHT AGENCY] confirms that an oversight agreement has been executed for the Site. The applicant has a high likelihood of completing significant progress if ECRG funding is granted because our agency is capable of providing timely oversight during the two-year ECRG grant period.

Please see the attached ECRG Project Suitability Form. If you have any questions, please contact [ADD CONTACT INFORMATION FOR ANY FOLLOW-UP INFORMATION].

Sincerely,

[ASSISTANT EXECUTIVE OFFICER/LOCAL OVERSIGHT AGENCY MANAGEMENT EQUIVALENT]

Attachments:

1. ECRG Project Suitability Checklist
2. Regulatory Oversight Agreement

What costs are eligible under ECRG and how do I budget them?

- ECRG requires that [prevailing wage](#) rates be used where applicable and used when estimating the budget for ECRG Tasks
- Have contracting practices to ensure fair market costs through a competitive procurement process for contracts over \$10,000
- Have a contracting policy that requires diverse suppliers be considered, such as disabled veteran business enterprises, disadvantaged business enterprises, or small business enterprises
 - [Quick Reference Guide](#) on how small businesses can become certified and participate in upcoming contract opportunities

Community-wide Assessment	Site-specific Investigation	Site-specific Cleanup
Regulatory Oversight Fees (not required)	Regulatory Oversight Fees	Regulatory Oversight Fees
Grant Project Management	Grant Project Management	Grant Project Management
Community Engagement on Reuse Visioning	Community Engagement on Reuse Visioning	Community Engagement on Cleanup
Tribal Engagement	Tribal Engagement	Tribal Engagement
Brownfield Planning and Inventory	All Appropriate Inquiries (AAI) or Phase I	All Appropriate Inquiries (AAI) or Phase I
All Appropriate Inquiries (AAI) or Phase I	Investigation Workplan and Fieldwork	Investigation Workplan and Fieldwork
Investigation Workplan and Fieldwork	Investigation Report	Investigation Report
Investigation Report	Cleanup Workplan	Cleanup Workplan
Reuse Assessment	Risk Assessment Workplan/Report	Cleanup Implementation/Fieldwork
	Feasibility/Pilot Study Workplan	Cleanup Report
Spending Category Key	Feasibility/Pilot Study Report	Risk Assessment Workplan/Report
Regulatory Oversight Fees	California Environmental Quality Act (CEQA) Document	Feasibility/Pilot Study Workplan
Grantee Project Manager Labor/Travel	Land Use Covenant (LUC) Preparation	Feasibility/Pilot Study Report
Community Engagement Contracts		Cleanup Design and Implementation Plan
Environmental Contracts		Operations and Maintenance (O&M) Plan
		California Environmental Quality Act (CEQA) Document
		Land Use Covenant (LUC) Preparation

Applicant may add as many columns as needed →

	Regulatory Oversight	Community Engagement	Indoor Air Sampling Workplan and Fieldwork	Indoor Air Sampling Report	
	12/15/2023 – 12/15-2025	12/15/2023 – 6/15/2024	12/15/2023 – 4/15/2024	6/15/2024 – 8/30/2024	
Description	Budget	Budget	Budget	Budget	Total Budget
Regulatory Oversight Fees (\$)	\$25	-	-	-	\$25
Environmental Contracts (\$)	-	-	\$25	\$25	\$50
Community Engagement Contracts (\$)	-	\$ 25	-	-	\$ 25
Grantee Project Manager Labor* (\$)	\$25	\$ 25	\$25	\$25	\$ 100
Grantee Project Manager Travel** (\$)	-	-	-	-	-
Total	\$ 50	\$ 50	\$ 50	\$ 50	\$200

What are ineligible costs?

- Eligible tasks were shown on slide 16
- Only cover tasks related to environmental assessment, investigation and cleanup
 - Engagement activities related to ECRG Tasks
 - Section 2.8 lists ineligible tasks
- If ineligible tasks are included, the grant application can be denied

If unsure ask us first

What are the requirements for reuse?

- Reuse must benefit disadvantaged or vulnerable communities
 - If the reuse is housing, school, hospital, or day care, will the cleanup approach evaluated be one that does not require land use controls?
- Reuses that have the potential to cause significant pollution are disallowed

For more information, visit our website and [sign up](#) for ECRGenius #3: Engagement, Equity & Reuse Webinar - Tuesday August 8, 2023

What are the community engagement requirements?

	Inform	Consult	Involve	Collaborate	Participatory Governance
Public Participation Goal	To provide the public with balance and objective information to assist them in understanding the problem	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public to ensure that public concerns are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and identification of preferred solution.	To place final decision making in the hands of the public.
Promise to the Public	We will keep you informed.	We will provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns are reflected in the outcome.	We will look to you for advice on solutions and incorporate your advice.	We will implement what you decide.

Adapted from the IAP2 [Spectrum of Public Participation](#)

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What are Community Benefit Commitments?

- Expanded economic opportunity
- Stabilized communities
- Increased mobility and connectivity
- Healthier and safer communities
- Environmental justice

- **Community-wide Assessment** select a minimum of **one**
- **Site-specific Investigation** select a minimum of **two**
- **Site-specific Cleanup** under \$5 million select a minimum of **two**
- **Site-specific Cleanup** \$5 million or more select a minimum of **three**

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What is the ECRG schedule?

ROUND 2 GUIDE TO THE EQUITABLE COMMUNITY REVITALIZATION GRANT
 ~ \$85 Million Available Now for Environmental Investigation and Cleanup in Disadvantaged California Communities

1. ECRG's MISSION & VISION
 The ECRG is a historic investment in California's vulnerable and disadvantaged communities to address historic environmental injustices and set a path to improve public health and revitalize brownfields.
 ECRG's mission is to EnCouRaGe beneficial reuse of land through assessment, investigation, and cleanup and to advance environmental justice goals through concerted support and deep investment in vulnerable and underserved communities.
 ECRG's vision is to transform brownfields into vibrant community spaces where people live, work, play, and learn in harmony with their built environment.

2023 \$70.5M granted
2023 ~\$85M available
2024 ~\$100M available

Available funds are estimates and are subject to change.

2. ELIGIBILITY
 Public entities, nonprofits, and tribes are eligible to apply to conduct environmental assessment, investigation and cleanup in California's most disadvantaged areas. We highly recommend using the Eligibility Self Check Tool found on the New Applicant Resources page of our website www.dtsc.ca.gov/ecrg/.

EXAMPLES OF ROUND 1 GRANTEES

GRANTEES	LOCATION	PROPOSED REUSE	AMOUNT GRANTED	GRANT TYPE
The Utility Council	Oakland	Affordable Housing	\$873,613	Investigation
San Diego State University Research Foundation	San Diego	Transportation & Education Hub	\$300,000	Community-wide Assessment
City of Lynwood	Lynwood	Commercial/Retail	\$4,874,991	Cleanup
Yurok Tribe	Klamath	Park/Open Space	\$477,250	Cleanup

3. AVAILABILITY
 • \$350,000: Community-wide Assessment
 • \$150,000-\$7 million: Site-specific Investigation
 • \$300,000-\$10 million: Site-specific Cleanup

4. INFORMATION YOU WILL NEED
 • Site address and key information such as APN, parcel info, acreage, CES score, and poverty score
 • You can find our easy to use map on our New Applicant Resources webpage at www.dtsc.ca.gov/ecrg/
 • Property ownership documents and access agreement
 • Scope and schedules for 2 years of grant activities
 • Environmental oversight agreement
 • Not needed for Community-wide Assessments
 • Please check the DTSC website for specific information about eligibility requirements
 • www.dtsc.ca.gov/ecrg/

5. SCHEDULE
 • August 14, 2023 - Application Opens
 • October 9, 2023 - Application Deadline
 • January 2024 - Decisions Released
 • February 2024 - Agreements Executed

Scan for website

Sign up for our newsletter to stay informed about new information, educational webinars, and grant deadlines on our website www.dtsc.ca.gov/ecrg/.

OFFICE OF BROWNFIELDS DTSC EnCouRaGes you to apply!
 Department of Toxic Substances Control - Cleanup in Vulnerable Communities Initiative

NEW Round 2 Guide

Event	Date
Webinar #1: Round 2 Overview	Tuesday, July 25, 2023
Webinar #2: Eligibility, Ownership & Access	Tuesday, August 1, 2023
Webinar #3: Engagement & Reuse	Tuesday, August 8, 2023
Round 2 Guidelines and Application Released	Monday, August 14, 2023
Round 2 Application Opens	Monday, August 14, 2023
Webinar #4: FLUXX & Application Walkthrough	Tuesday, August 15, 2023
Local Environmental Agency Oversight Applications (recommended latest application date)	Tuesday, September 5, 2023
DTSC/Regional Board Oversight Applications due	Monday, September 11, 2023
Round 2 Applications Close	Monday, October 9, 2023
Applications Screening and Evaluation	January 2024
Grants Awarded and Agreements Executed	February 2024
DocuSign Grant Agreements	Within 2 business days after receipt

How can you prepare for your ECRG application?

- Use the resources on the [ECRG website](#)
- Use the ECRG [Eligibility Self-Check Tool](#)
 - Collect the information needed for the application
 - Gather documents needed for the application
- Participate in ECRGenius [webinars](#)
- Work with our [Brownfield Technical Assistance Provider](#)
- Pro bono environmental consultants

How can you get free assistance?

- Work with the Center for Creative Land Recycling
- [Set up an appointment](#) for:
 - Early stage ECRG project envisioning
 - Site eligibility verification
 - Discussion on ECRG application focus areas
 - Getting answers to specific questions on the ECRG
 - Building a better ECRG application
 - Application pre-submittal review
- Join DTSC & CCLR at the CALRC Conference Sept 26-28 in Carson
 - Meet staff in person to answer questions and conduct a pre-submittal review



Working with CCLR dramatically increases ECRG success

95% of applicants who worked with CCLR received funding in Round 1

How can you learn about application details?

ECRGenius #3: Engagement, Equity & Reuse Webinar - Tuesday August 8, 2023

A synopsis of the ECRG engagement approach, community benefit commitments, equitable reuse, and contract requirements. University of California at Berkeley's Othering and Belonging Institute is a special guest.

ECRGenius #4: FLUXX & Application Walkthrough Webinar - Tuesday August 15, 2023

A run through the major questions of the ECRG application directly on the [Fluxx application portal](#) and pointers for successful application completion.

A group of people, mostly seen from the back or side, are standing in a garden. They are wearing winter jackets and coats. In the foreground, there are rows of young green plants in a garden bed with dark soil and black plastic mulch. The background shows trees and a bright sky.

Questions and Answers

Question and Answer Instructions

- **Zoom Audio:** Use the “raise hand” feature and you will be invited to unmute your audio when it is your turn.
- **Zoom phone line:** Press *9 to join the phone queue. The facilitator will say the last 4 digits of your phone number when it is your turn. Press *6 to unmute your line.
- **Text only:** Use the Chat feature to have your question read by the facilitator.

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