
March 1998

SUPERFUND

EPA's Use of Funds for Brownfield Revitalization



**Resources, Community, and
Economic Development Division**

B-279206

March 19, 1998

Honorable Thomas J. Bliley, Jr.
Chairman, Committee on Commerce
House of Representatives

Dear Mr. Chairman:

Federal, state, and local governments have focused much attention on the cleanup and economic redevelopment of abandoned and idled urban properties, known as brownfields, that have real or perceived chemical contamination. Partly because of the potentially high costs to clean contaminated sites in accordance with federal and state environmental laws, businesses have often chosen to locate on uncontaminated sites outside of urban areas, known as greenfields. Consequently, cities can lose tax revenues and employment opportunities. The Congress has been very interested in supporting initiatives to promote the cleanup and redevelopment of brownfields and has considered several legislative proposals to address this goal. In the meantime, the Environmental Protection Agency (EPA) has implemented several brownfield initiatives and has been setting aside portions of its budget to fund them.

To help ensure that EPA is using these funds to maximize the abilities of state, local, and tribal governments to assess, clean up, and redevelop brownfields, you first asked us to determine the activities EPA has supported with funds targeted for brownfields in its budgets for fiscal years 1997 and 1998. Subsequently, you asked us to focus specifically on two program categories of brownfield expenditures—the outreach, technical assistance, and research category and the job training category—because they are not as directly related to assessing sites for the extent of contamination present, a key first step toward cleanup, as the other program categories. Specifically, for the two program categories, you asked us to identify any grants and agreements EPA awarded since fiscal year 1993—the first year the agency began its brownfield efforts—to determine (1) the criteria and process EPA used to award these grants and agreements,¹ (2) the uses recipients made of these funds, and (3) the monitoring and the oversight EPA provided for them. In responding to these audit objectives, we reviewed EPA's files for the 24 grants and agreements in these two program categories that had been exclusively or

¹Throughout this report, we refer to grants and cooperative agreements as grants and agreements or awards. Both provide funding to organizations to undertake certain activities. EPA uses grants when it does not expect to be substantially involved in the activities and cooperative agreements when it does expect to be involved.

partially used for brownfield activities. We also conducted detailed on-site audits of the recipients' files for 3 of the 11 completed grants and agreements in these two categories. Appendix I contains a more detailed description of our objectives, scope, and methodology.

Results in Brief

EPA primarily uses its brownfield funds to help state, local, and tribal governments build their capacities to assess, clean up, and revitalize brownfield sites. EPA is using the majority of its \$126 million in brownfield funds for fiscal years 1997 and 1998 to (1) help these groups identify, assess, characterize, and develop cleanup plans for brownfield sites; (2) provide them with seed money to create revolving loan funds that they could use to award low-interest loans for cleanups;² (3) support state development of programs that provide incentives for voluntary cleanup of sites, especially brownfields; and (4) provide outreach to groups affected by brownfields, technical assistance to them on cleanup and redevelopment methods, and research for them on brownfield issues. EPA is using the remaining brownfield funds for support and other program activities, such as EPA's personnel costs.

EPA set up four broad criteria and an approval process to award funds noncompetitively to nonprofit organizations for their unsolicited proposals to provide outreach, technical assistance, research, and job training. The criteria included increasing community involvement at brownfields, promoting redevelopment, providing for site assessments, and sustaining a clean environment in the future. If the proposals met one of the four criteria, the managers responsible for most of the brownfield activities explained that they generally would fund the proposals if the nonprofit organization represented unique constituents affected by brownfields, such as tribes, or offered unique brownfield expertise or experience. Although EPA has used the same process and criteria to award a few job training grants and agreements, it is developing a strategic plan to use as criteria for making future awards.

Since fiscal year 1993, award recipients have used \$3.7 million from the 24 outreach and job training awards we reviewed to conduct brownfield-specific activities. These activities included sponsoring conferences and meetings to discuss and solicit input on brownfield issues and publishing documents that describe brownfield assessments, cleanup, and best practices for redevelopment. Award recipients used additional

²EPA's fiscal year 1998 appropriations law includes language that prohibits the use of brownfield funds for this purpose unless specifically authorized in subsequent legislation.

funds from the 24 awards for outreach and job training activities in support of the broader Superfund program or other EPA programs, although some of these activities would also indirectly help to promote brownfield cleanup and redevelopment.³ To accomplish these technical assistance and research activities, recipients spent a majority of the funds on personnel costs; indirect costs, such as overhead; and contractual services, such as consultants.

EPA staff responsible for managing the 24 awards we reviewed were monitoring the overall status of the budget for each award and the content and quality of recipients' activities. The project officers conducted this monitoring through various means, including periodic telephone calls to the recipients, attendance at meetings and forums, and a review of the recipients' final reports to EPA. In addition, the project officers took the added step of requiring and reviewing quarterly reports from recipients to help ensure adequate progress on the approved workplan. These 24 grants and agreements most likely would not be selected for a detailed financial audit because their dollar value—ranging from \$20,000 to \$2.7 million, with a median of \$168,000—is relatively small. During our on-site audit of the financial records for the three recipients with completed agreements, we determined that, overall, they were spending the funds in accordance with guidance from the Office of Management and Budget.

Background

EPA defines brownfields as abandoned, idled, or underused industrial or commercial sites where expansion or redevelopment is complicated by real or perceived environmental contamination. Usually, the contamination is less extensive than sites on EPA's priority list for cleanup. We have reported that liability and other concerns have deterred many potential developers from using brownfields and that, instead, they use uncontaminated sites in suburban areas referred to as greenfields.⁴ The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes EPA to clean up hazardous waste sites and to compel parties responsible for contamination to perform or pay for the cleanups. Developers' avoidance of brownfields has contributed to a loss of employment opportunities for city residents, a loss of tax revenues for city governments, and an increase in urban sprawl.

³Superfund is the common name for EPA's program to clean up abandoned hazardous waste sites.

⁴Superfund: Barriers to Brownfield Redevelopment ([GAO/RCED-96-125](#), June 17, 1996), Superfund: Proposals to Remove Barriers to Brownfield Redevelopment ([GAO/T-RCED-97-87](#), Mar. 4, 1997), and Superfund: State Voluntary Programs Provide Incentives to Encourage Cleanups ([GAO/RCED-97-66](#), Apr. 9, 1997).

To encourage more redevelopment of brownfields and promote cleanups, the Congress has considered several legislative proposals, both as separate bills and as part of legislation to reauthorize the Superfund program, that would help address liability concerns and provide economic incentives. In November 1993, EPA introduced the Brownfield Economic Redevelopment Initiative, for which the Outreach and Special Projects Staff—referred to in this report as the brownfield program office—has primary responsibility. This office reports to the Assistant Administrator for Solid Waste and Emergency Response, who also manages the Superfund program. The brownfield initiative is a commitment by EPA to help communities revitalize brownfields, both environmentally and economically, and mitigate potential health risks. EPA has begun four major efforts to implement this initiative: (1) providing grants for brownfield pilot projects for site assessment and cleanup planning; (2) clarifying liability and other issues associated with cleaning up sites to return them to productive use; (3) building partnerships and outreach for brownfield redevelopment among federal agencies, state and local governments, and communities; and (4) fostering local job development and training initiatives related to brownfield activities.

EPA Is Using Most of Its Brownfield Funding to Help State, Local, and Tribal Governments Assess Sites and Build Voluntary Cleanup Programs

EPA is spending most of the \$126 million it allotted for brownfield activities—\$37.5 in fiscal year 1997 and \$88.5 in fiscal year 1998—to help state, local, and tribal governments build their capacities to revitalize brownfields. Table 1 illustrates the eight major categories of activities into which EPA is dividing its brownfield funding:⁵

⁵Under EPA's regulations, the agency may use the Superfund Trust Fund to finance remedial actions only at sites that are on the agency's list of priority sites for cleanup. The trust fund was financed primarily by taxes on crude oil and certain chemicals until January 1996, when the taxes expired. The Congress has not reauthorized the taxes, but the fund has a remaining balance.

Table 1: EPA's Use of Brownfield Funds, Fiscal Years 1997 and 1998

Dollars in millions			
Program category	Fiscal year 1997 obligations	Planned fiscal year 1998 obligations	Percentage change from 1997 to 1998
Assessment pilot projects	\$7.7	\$20.0	160%
Cleanup revolving loan fund	8.4	0 ^a	N.A.
State voluntary cleanup programs	9.4	15.0	60%
Targeted site assessments	2.3	3.0	30%
Job training	0.3	5.8	1,833%
Outreach, technical assistance, and research	6.3	4.5	(29)%
Policy, planning, and evaluation	0.6	0.7	17%
EPA personnel	2.5	4.5	80%
Total	\$37.5	\$88.5^a	136%

Note: EPA generally requires recipients to share a portion of the costs associated with grants and agreements. Typically, EPA provides 95 percent of the funds and the recipient provides 5 percent. The Superfund Trust Fund supplies about 60 percent of EPA's total funds.

^aThe Congress approved EPA's request to spend a total of \$88.5 million on brownfield activities in fiscal year 1998 but directed that EPA not spend any of these funds for revolving loan fund activities. Consequently, EPA is requesting the Office of Management and Budget's (OMB) approval to use the \$35 million it had requested for the loan program on assessments, state voluntary cleanup programs, and related activities.

Source: GAO's analysis of data from EPA's Outreach and Special Projects Staff.

Assessment Pilot Projects

EPA funds assessment pilot projects through cooperative agreements with state, local, and tribal governments, which use the funds to assess, identify, characterize, and plan cleanup activities at contaminated sites targeted for redevelopment. In general, an individual recipient can get a one-time grant of up to \$200,000. EPA began funding these pilot projects in September 1993. At the time of our review, the agency had used \$21 million to fund 121 projects in 41 states, including 45 projects in fiscal year 1997. EPA plans to fund an additional 100 projects in fiscal year 1998.

Cleanup Revolving Loan Fund

EPA provided financial support to state, local, and tribal governments to help them create revolving loan funds that would provide low-interest loans to public and private entities for site cleanups. Any site that had been formally assessed before October 1, 1995, to characterize the nature and extent of contamination could be eligible for a loan. EPA allocated \$8.4 million in fiscal year 1997 funds to 24 state, local, and tribal

governments to begin these revolving funds. Because the Congress directed EPA not to use any of its fiscal year 1998 funds on this program activity, EPA is planning to reallocate \$35 million it intended to use on revolving loan funds to some of the remaining program categories.

State Voluntary Cleanup Programs

EPA provides state and tribal governments with funds to enhance and develop voluntary cleanup programs that states often use to clean up brownfields. States have used fiscal year 1997 funds for such activities as (1) completing regulations for voluntary cleanup programs, (2) purchasing equipment to support program administration, (3) paying the salaries of agency staff to develop program procedures, (4) helping states and tribes to build their own capacity to oversee cleanups, and (5) promoting greater community involvement. In fiscal year 1997, EPA allocated \$9.4 million for programs to assist 42 states and two tribal governments; in fiscal year 1998, the agency plans to allocate \$15 million for programs to assist all 50 states and more tribal governments.

Targeted Site Assessments

EPA uses funds from the program category for targeted site assessments to pay either its contractors or the states through cooperative agreements to identify the extent of contamination at those sites where the work can be performed faster and more cheaply than if done by the local governments. EPA regions reported that they used \$2.3 million in fiscal year 1997 to fund 27 targeted site assessments and that they plan to fund an additional 30 assessments with the \$3 million budgeted for fiscal year 1998.

Job Training

EPA enters into environmental job training grants and agreements with educational institutions and professional organizations for (1) environmental curriculum development that incorporates brownfields, (2) community outreach and information dissemination on brownfields, and (3) job training in hazardous waste cleanup and employment assistance at cleanup sites. Since fiscal year 1993, EPA has allocated a small portion of general funds to make five job training awards, three of them in fiscal year 1997. The agency plans to make an additional 10 awards with a \$2.8 million increase in Superfund resources that was made available for job training in fiscal year 1998. Through an interagency agreement, the remaining \$3 million that had been budgeted for environmental job

training has been allocated to the National Institute for Environmental Health Sciences to provide training on such issues as workers' safety.⁶

Outreach, Technical Assistance, and Research

EPA funds outreach to constituents affected by brownfields; technical assistance to state, local, and tribal governments on brownfield redevelopment; and brownfield-related research. Typically, the agency awards grants and agreements to educational, governmental, research, and community organizations to, among other things, disseminate information and conduct research on issues related to site redevelopment and potential health risks from contaminants. During fiscal year 1997, EPA funded 11 such grants and agreements. The decreased amount from \$6.3 million in fiscal year 1997 to \$4.5 million in fiscal year 1998 reflects EPA's plan to fund more agency personnel to manage the increased number of assessment pilots.

Policy, Planning, and Evaluation

EPA's Office of Policy, Planning, and Evaluation awards agreements and contracts to research and community organizations to provide analytical tools and products for urban development and brownfield activities. For example, EPA awarded a \$45,000 cooperative agreement in fiscal year 1997 for a 2-day conference and workshop that included some discussion of brownfield issues specifically affecting developers and lenders. The office awarded four agreements totaling \$183,000 and five contracts totaling \$422,000 in fiscal year 1997. The office plans about the same level of activity for fiscal year 1998.

EPA Personnel

In fiscal year 1997, EPA assigned approximately 33 employees in headquarters and field offices to manage brownfield activities at a cost of \$2.5 million; in fiscal year 1998, the agency plans to almost double the amount of funds and increase staff to 57 employees. The managers within the Outreach and Special Projects Staff—referred to in this report as the brownfield program managers—explained that EPA needs more staff to manage the increasing number of grants, cooperative agreements, and pilot projects to state, local, and tribal governments.

⁶The National Institute for Environmental Health Sciences is part of the National Institutes of Health, whose mission is to conduct research on environmentally related diseases.

EPA's Criteria and Process to Evaluate Unsolicited Proposals for Funds for Its Outreach, Technical Assistance, and Research Program and Job Training Program

Although recipients do not have to compete against each other for funds from either EPA's outreach, technical assistance, and research program category or its job training program category, the agency has established criteria and set up an approval process to award funds for brownfield activities.⁷ EPA's Outreach and Special Projects Staff awarded funds to nonprofit organizations if their unsolicited proposals addressed one of the following four broad criteria:⁸

- increase community involvement in brownfields;
- promote the redevelopment of brownfields;
- provide for site assessment and cleanup; and
- promote the principal of sustainable development—that future economic well-being depends on the ability to sustain a healthy environment and productive, renewable natural resources.⁹

The managers said they often rejected proposals that did not meet at least one of the four criteria, but they could not document the number and type of rejected proposals.

According to the brownfield program managers, they used the following process to approve the 24 awards we reviewed. If a proposal met at least one of the four criteria, it went through an internal EPA and, under some circumstances, an external review process. The brownfield program managers first checked their computerized tracking system of all federally funded outreach, technical assistance, research, and job training activities to ensure that the proposal would not duplicate ongoing awards. They then sent various proposals to other EPA offices, such as the Office of Research and Development and the Office of Policy, Planning, and Evaluation, that had conducted similar activities for their concurrence. They also sent proposals to the Office of General Counsel (OGC) to determine if the action complied with existing law, although they were not required to do this to approve an award. Furthermore, they sent certain proposals to other federal agencies, such as the Department of Housing

⁷Requesters must compete to receive funds from some of the other program categories.

⁸Of the 24 grants and agreements we reviewed, EPA's Outreach and Special Projects Staff issued 15: 12 as cooperative agreements, 1 as an interagency agreement, and 2 as grants. For the remaining nine awards, EPA's Office of Policy, Planning, and Evaluation issued five cooperative agreements, EPA's Office of Small and Disadvantaged Business Utilization issued one grant, and EPA's Region 5 issued three grants. We did not evaluate the criteria and approval process these three offices used to make awards because the number of awards they made and their total dollar value are relatively small.

⁹As its criteria for making these awards, EPA adopted these four goals for brownfield revitalization that the Administration had established as part of its February 1997 National Partnership initiative to coordinate brownfield activities across all federal agencies.

and Urban Development, that had conducted similar activities for review of the proposals' technical and scientific merit.

The brownfield program managers explained that EPA did not use a process whereby organizations had to compete for outreach, technical assistance, research, and job training funds as it used to make funding awards in some of the other brownfield program categories, such as assessment pilot projects. This is because, generally, the organization submitting an outreach or job training proposal serves a unique group of constituents that is affected by brownfields or has unique brownfield expertise.¹⁰ EPA guidance allows the agency to use unique qualifications as a justification for a noncompetitive award. The EPA brownfield program managers maintained that going through the expense of widely publicizing available funding and conducting a competitive process to screen hundreds of applications is not cost-effective, especially given the small amounts of the awards.

For example, these managers explained that one recipient, the International City/County Management Association, represents city and county managers nationwide whose jurisdictions are directly affected by brownfields. EPA believes this association could more quickly poll its members to determine what brownfield assistance they need EPA to provide and more quickly disseminate information to them about successful brownfield redevelopment efforts than EPA could. According to the program managers, EPA also provided a cooperative agreement to the Institute for Responsible Management because its director has years of experience in brownfields.¹¹ They explained that because of this experience, the director can help the pilot communities organize themselves and focus on brownfield cleanup and redevelopment options. The director can also provide research, information, and troubleshooting to these groups as well as document the lessons learned and success stories so other communities can benefit from them.

EPA has used the same approval process for the five grants it had awarded for job training at the time of our review. For example, the agency provided funds in fiscal year 1997 to the Hazardous Materials Training and Research Institute at East Iowa Community College District to conduct

¹⁰EPA has established more specific criteria that state, local, and tribal governments had to meet in order to obtain funding for an assessment pilot project and has set up a panel to screen the project applications and determine which ones to fund.

¹¹This nonprofit organization describes its mission as achieving effective collaboration and cooperation between the public and private sectors on public policy issues related to the environment, public safety, and health concerns.

workshops for community college faculty on how to build environmental curricula for job training, especially relating to cleaning up contaminated sites.¹² According to the program managers, this award was made because of the Institute's success in developing training programs through awards from EPA's Office of Research and Development. They said that EPA is now working on a strategic plan for its training activities and will use it to determine whether or not to fund future job training proposals.

Recipients Used Funds Primarily to Sponsor Forums, Conduct Research, and Publish Documents on Brownfield Issues and on Redevelopment Best Practices

The 24 awards made since 1993 that we reviewed with brownfield-related activities totaled \$9.6 million. These funds came from the allotment to the brownfield program office, the Superfund Trust Fund, and general funds from either the brownfield or other EPA program offices. Recipients used these awards to provide outreach, technical assistance, research, and job training to support both brownfields specifically and Superfund or other programs more generally. We determined that about \$3.7 million of these funds were for the following more specific brownfield activities, although some portion of the activities provided by the remaining funds could also indirectly benefit brownfields:

- issue reports or other documents on redevelopment activities;
- sponsor forums, conferences, or other meetings to disseminate research regarding brownfield issues and policies;
- conduct or sponsor workshops on brownfield issues or policies and on developing environmental curricula for job training related to hazardous waste cleanup;
- conduct research on brownfield and redevelopment issues, such as insurance coverage for entities conducting cleanups; and
- establish or develop programs to identify barriers to brownfield development.

Recipients also used the awards to perform other activities, including the development of educational materials or tools and databases on redevelopment case studies. Appendix II provides a more detailed description of the activities funded under each of the 24 grants and agreements.

In conducting these activities, recipients have spent most of the awarded funds on (1) their own personnel costs, including fringe benefits; (2) indirect costs, such as overhead; and (3) contractual services, such as

¹²According to EPA brownfield program managers, EPA used funds authorized under the Solid Waste Disposal Act for these job training awards.

any consultants used. They also have spent smaller portions of their funds on expenses for travel to enable their staff and participants to attend conferences and forums; equipment, such as copying machines; and supplies.

Project Officers Were Monitoring the Brownfield Grants and Agreements, but the Awards Will Not Likely Be Subject to Financial Audits Because of Their Small Dollar Value

Our review of the files for each of the 24 awards and our interviews with various members of the Outreach and Special Projects Staff responsible for managing some of the individual awards showed that project officers were monitoring recipients' activities. This monitoring consisted primarily of project officers' making periodic telephone calls to recipients to discuss the status of funded activities, attending some of the functions sponsored by the recipients, meeting with recipients at EPA headquarters, and reviewing quarterly and final reports that the recipients were required to submit to EPA. In these reports, recipients give detailed descriptions of the activities that were accomplished under their awards, and, in some cases, describe the status of the overall budget, if EPA had made this a specific reporting requirement. While EPA's Office of Administration and Resources Management encouraged project officers to conduct both on-site visits to recipients and more formal semiannual or annual project reviews, the files for our sample of 24 awards did not document that project officers were conducting these activities. Although the brownfield program managers stated that project officers were meeting informally with recipients, the project officers for two of the three recipients we audited had not visited them. The brownfield program managers explained that because of the relatively small monetary value of these awards, ranging from \$20,000 to \$2.7 million with a median of \$168,000, the formal on-site visits were not cost-effective and that more formal reviews were not necessary because the project officers' other monitoring activities were adequate.

Once a grant or agreement has been completed, each project officer is also responsible for conducting a final closeout review to determine whether the recipient has completed all technical work and met all requirements before EPA makes or denies the final payment to the recipient and recovers any unused funds. We determined that 2 of the 11 completed awards in our sample were due to be closed out—closeout must occur within 180 days of a completed grant or agreement—and EPA had conducted both closeouts. For example, to close out a cooperative agreement issued to the Northeast-Midwest Institute, whose project period ended on March 31, 1997, the recipient submitted its final financial status report on April 25, 1997, certifying that it had spent the funds. The project officer for this

cooperative agreement reviewed this report along with the recipient's final quarterly report to close out the agreement on May 5, 1997.

Project officers are not required to conduct a detailed financial audit of the recipients' expenditures as part of the closeout review. The brownfield program managers stated that an audit would not be cost-effective because the awards have relatively small monetary values. Instead, EPA's regulations require recipients to maintain supporting financial records of all expenditures, such as receipts and invoices, on-site for 3 years after completion of a grant or agreement. During that period, recipients can be subject to an audit either by EPA's OIG or a single audit under provisions in OMB Circular A-133, entitled "Audits of States, Local Governments, and Non-Profit Organizations." According to this guidance, a recipient that spends at least \$300,000 in federal funds in 1 year shall have a single or program-specific audit conducted for that year. The federal agency that has provided the most funds to the recipient for that year is responsible for coordinating that audit. The grant and agreement files we reviewed contained information that verified such single audits were being conducted, however, EPA's awards were not sampled during these audits because of their relatively low monetary amounts. In addition, EPA OIG staff stated that they were unlikely to audit these grants and agreements unless they received information of wrongdoing. In our detailed on-site audit of the financial records for three recipients, we determined that, overall, they were spending the funds in accordance with OMB's guidance.

EPA's General Counsel Raised Questions About the Statutory Basis for Some Awards

During our review of agency files for the 24 awards, we noted that EPA's OGC had cautioned the program offices that initiated the awards that external reviewers might determine that some of the activities were not allowable under the statute EPA had used to make the awards. If so, recipients would have to return all funds, even if they had completed the agreed-to activities. EPA used section 311(c) of CERCLA as authority for awarding at least portions of 14 of the awards we reviewed.¹³ This section authorizes EPA to use grants, cooperative agreements, and contracts to conduct and support research on ways to detect hazardous substances and evaluate the risks they pose to human health. However, in internal memorandums to the program offices that initiated 9 of the 14 awards,

¹³EPA also uses (1) CERCLA section 104(d) to award funds for pilot projects, revolving loan funds, and state voluntary cleanup programs; (2) portions of CERCLA section 311(b) to award funds for training related to the handling of hazardous waste; and (3) section 8001 of the Resource Conservation and Recovery Act (RCRA)—the program EPA uses to clean up hazardous waste at operating facilities—to award funds for outreach, technical assistance, research, and job training related to solid and hazardous waste management. Some agreements combine funds authorized under CERCLA with funds from the Outreach and Special Projects Staff's general program and management account.

EPA's OGC stated that, while section 311(c) can be construed to authorize those awards, it did not explicitly authorize the proposed activities and thus warned that subsequent reviewers could question whether those activities were really health-related research and disallow the expenditures. For example, OGC raised this issue on a \$1 million cooperative agreement authorized under section 311(c), whose recipient conducted meetings and training and issued publications to educate local communities on issues regarding Superfund, brownfields, and special concerns of minority communities located near hazardous waste sites. OGC has encouraged the program offices to seek explicit statutory authority from the Congress for the activities funded through the nine awards.

According to the brownfield program managers and OGC representatives, because the statutory language is relatively broad, EPA has interpreted it to authorize the use of funds for these types of brownfield research activities. They also said that as a result, OGC did not disapprove the awards and the program offices went forward with them. Because the activities being conducted are mainly related to the Superfund program and funded with trust fund money, EPA has had to use CERCLA authority to make these awards rather than other environmental statutes, even though these other statutes more clearly provide for the types of sociological, economic, and policy research EPA has conducted with these awards. The program managers stated that although the administration, in its 1994 Superfund reauthorization proposal, did include language to clarify the authority, the bill did not pass, and the agency is considering whether to pursue clearer statutory authority through other means. We did not try to independently determine whether the nine awards were made in accordance with CERCLA because EPA's OIG is addressing this issue as part of an ongoing review covering a broader sample of grants and agreements across numerous EPA programs and environmental statutes.

Agency Comments

We provided copies of a draft of this report to EPA for review and comment. The agency generally agreed that the report accurately describes EPA's brownfield activities. (See app. III for a copy of EPA's comments.) The agency asked us to clarify that it used various statutory authorities to fund the different types of brownfield activities it conducted. For example, the agency noted that it used either CERCLA section 311(c) or RCRA section 8001 to make awards for brownfield research. The authority used depended on whether the activities were to detect and assess hazardous substances and evaluate their effects on the environment or were related to more general solid and hazardous waste management

activities. In response, where appropriate, we noted the statutory bases used to fund brownfield awards. The agency also noted that only portions of several of the awards we discuss in appendix II, such as its award with the University of Maryland at Baltimore for training regarding hazardous substances, are being used for brownfield activities. We had already noted this in several sections of the report because the scope of our work included any award that supported brownfield activities, either wholly or in part. Finally, EPA suggested several technical changes to the report, which we incorporated where appropriate.

We performed our work from July 1997 through February 1998 in accordance with generally accepted governmental auditing standards. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the EPA Administrator and other interested parties. We will also make copies available to others upon request. If you or your staff have any questions, please contact me at (202) 512-6111. Major contributors to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lawrence J. Dyckman". The signature is written in a cursive, flowing style.

Lawrence J. Dyckman
Associate Director, Environmental
Protection Issues

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Abbreviations

CERCLA	Comprehensive, Environmental Response, Compensation, and Liability Act
EPA	Environmental Protection Agency
OGC	Office of General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
RCRA	Resource Conservation and Recovery Act

Objectives, Scope, and Methodology

The Chairman of the House Committee on Commerce asked us to review EPA's brownfield expenditures. Specifically, we were to determine (1) what activities EPA supported with the funds it targeted for brownfields in its fiscal years 1997 and 1998 budgets; (2) what criteria and approval process EPA used to award grants and agreements within its program categories for Outreach, Technical Assistance, and Research and Job Training that included brownfield funds or activities since 1993; (3) how recipients used the funds provided by the awards in these two categories; and (4) how EPA monitors and oversees these grants and agreements.

To determine the activities EPA supported with its brownfield allotments and the criteria, approval process, and monitoring applied to outreach and job training awards; we contacted EPA brownfield program managers within the Outreach and Special Projects Staff, the office with jurisdiction for brownfield activities within the Office of Solid Waste and Emergency Response. We also obtained program data from two of EPA's databases, its overall grants database and its specific brownfield awards database, and funding data from the agency's supporting budget documents. To determine how recipients used funds in the outreach and job training program categories, we reviewed EPA's files for 24 of the 30 grants and agreements containing some brownfield funding or activities that EPA had awarded in these two categories between fiscal years 1993 through 1997. We did not receive information for the remaining six grants and agreements that EPA had awarded late in fiscal year 1997 in time to conduct a review of EPA's files for these awards. To obtain additional information for each grant or agreement, we contacted EPA's Grants Administration Office, which has oversight jurisdiction for grants and agreements, and EPA's Financial Management Office.

To further test how recipients had used the funds, we selected 3 of the 11 completed outreach and job training grants and agreements for a more detailed, on-site financial audit. We focused on completed, rather than ongoing, grants and agreements because they would allow us to more fully cover all our review objectives, including questions on oversight. We focused on grants and agreements from 1993 through 1996 because 1993 was the earliest year EPA had made brownfield awards, and awards from 1997 did not have a long history of recipients' expenditures. We audited three awards with the highest total dollar value—one within the EPA program category of outreach, technical assistance, and research; the second within the EPA program category of job training; and a third that had been awarded by an EPA regional office within either category to determine if the region used criteria and oversight that differed from

headquarters. We discussed our selection of awards with EPA's Outreach and Special Projects Staff and these program managers concurred with our selection of awards made to the Hazardous Materials Training and Research Institute at Eastern Iowa Community College District, the International City/County Management Association, and the Northeast-Midwest Institute.

For the detailed audit of the three completed awards, we (1) interviewed the technical and financial managers with responsibilities for those awards; (2) reviewed a majority of the records, invoices, receipts, and other documentation that justified the expenditures in each of the budget categories; (3) determined the purpose of those expenditures; and (4) determined whether those expenditures had been made in accordance with Office of Management and Budget (OMB) circulars. This guidance included OMB Circular A-21 (rev. August 29, 1997) and OMB Circular A-122 (rev. August 29, 1997).

Brownfield-Related Funds and Activities Included in EPA Awards for Outreach, Technical Assistance, Research, and Job Training, Fiscal Years 1993 Through 1997

Dollars in thousands

Award recipient	Total award	Funding associated with brownfield activities	Major activities covered by award
Outreach, Technical Assistance, and Research Agreements (21)			
Americans for Indian Opportunity	\$400	\$100	Develop an organization to facilitate and help ensure full tribal participation in EPA's decision-making process on waste management issues that will affect tribal health and the environment. Provide outreach and technical assistance to identify environmental issues to help ensure full tribal participation in the brownfield pilot application process.
Conference of Mayors Research and Education Foundation	300	300	Promote ways to clean up and redevelop brownfield sites by such activities as — conducting roundtable meetings to address various brownfield issues (e.g., barriers to redevelopment and innovative approaches for brownfield revitalization), — develop and maintain a national brownfield redevelopment database of brownfield sites, and — establish a network of local officials to serve as technical experts on issues related to brownfield cleanup.
Department of Housing and Urban Development ^a	125	125	Study and report on the relative importance of environmental hazards and regulatory requirements as barriers to brownfield redevelopment.
Environmental Law Institute	2,663	50 ^b	Analyze the potential effects of a proposed residential capital gains tax cut and develop a workshop to market this provision for brownfield redevelopment.
The George Washington University	117	117	Study and report on policies and programs that can help reduce health risks and other problems associated with brownfield redevelopment, and identify and quantify the reduced developmental pressures on greenfields.
International City/County Management Association	1,495	200	Develop publications from a series of forums on Superfund effects on local communities. Develop a consortium and guidance manual on base closures. Produce two videos on ways governments can work together to clean brownfield sites.

(continued)

**Appendix II
Brownfield-Related Funds and Activities
Included in EPA Awards for Outreach,
Technical Assistance, Research, and Job
Training, Fiscal Years 1993 Through 1997**

Dollars in thousands

Award recipient	Total award	Funding associated with brownfield activities	Major activities covered by award
International City/County Management Association	168	68 ^b	Develop an independent membership organization to promote environmentally and economically smart development decisions. The organization will support members by researching policies and tools on brownfield redevelopment and serve as a clearinghouse for information and peer exchange.
International City/County Management Association	1,042	534	Conduct meetings and training and issue publications to educate local governments and communities on various issues associated with contamination at hazardous waste sites, including international and other brownfield issues and local government involvement at Superfund sites.
National Association of Counties	225	225 ^b	Through the creation of the Joint Center for Sustainable Communities, provide local elected officials with advice, information, and financial support on sustainable community development issues, such as brownfield redevelopment and curbing urban sprawl.
National Conference of Black Mayors	90	90	Develop a model brownfield redevelopment plan for member mayors to use to adapt to their unique situations.
National Council of Negro Women, Inc.	50	50	Hold six consultations to increase the awareness of locating hazardous waste sites in low-income neighborhoods and communities of color, and publish the results and findings of those consultations.
National Governors' Association	797	75	Conduct research, convene meetings, provide training, and issue publications on state and EPA issues related to the Superfund program, such as state requirements for cleanup programs and brownfield revitalization.
Northeast-Midwest Institute	115	115	Research and publish 20 case studies on the cleanup and reuse of brownfield sites and share the results with targeted groups of local leaders through at least two constituent meetings.
Northeast-Midwest Institute	250	250	To help reduce the health risks and other problems associated with brownfields, conduct a series of activities, including — monitor changes to brownfield and other cleanup legislation and publish information on these changes to educate constituents, and — publish "how-to" booklets on environmental site cleanup, workforce development, and other issues important to brownfield cleanup and redevelopment.
Northeast-Midwest Institute	250	250 ^c	Conduct conferences, develop models, and issue research papers on federal barriers to brownfield redevelopment and ways to achieve smart growth while protecting public health.

(continued)

**Appendix II
Brownfield-Related Funds and Activities
Included in EPA Awards for Outreach,
Technical Assistance, Research, and Job
Training, Fiscal Years 1993 Through 1997**

Dollars in thousands

Award recipient	Total award	Funding associated with brownfield activities	Major activities covered by award
Northeast-Midwest Institute	77	77 ^d	Conduct forums to promote public discussion on brownfield redevelopment.
Sixteenth Street Community Health Center	20	20 ^d	Form a Brownfield Oversight Community Action Team to learn about and monitor the progress of community brownfield cleanups, as well as educate communities and publicize information on associated health effects, redevelopment barriers, and other brownfield issues.
The Institute for Responsible Management	489	489	Compile and disseminate information, such as lessons learned, on EPA's brownfield pilot projects.
United Negro College Fund	50	50	Assist members in participating in community-based brownfield redevelopment activities through public dialogues, research, and other outreach initiatives, and in establishing and maintaining a national brownfield internet site.
Urban Land Institute	300	45 ^b	Sponsor a conference and workshop to make developers, lenders, and local governments aware of smart growth (i.e., environmentally and economically smart decisions), brownfield redevelopment, and other issues.
Wayne County Department of Environment	100	100 ^d	Publish a catalogue of organizations that focus on issues directly related to sustainable development and identify actions to overcome its barriers.
Training Agreements (3)			
Hazardous Materials Training and Research Institute at East Iowa Community College District	262	262 ^e	Conduct several workshops for community colleges on opportunities for environmental education and training, and provide on-going follow-up and technical assistance to colleges in such issues as brownfield redevelopment.
National Association of Minority Contractors	50	50 ^f	Deliver training to small and minority-owned contractors that remove hazardous waste from contaminated sites, including brownfield sites.
University of Maryland at Baltimore	140	40 ^e	Develop a curriculum to educate law students and practicing attorneys on a variety of human health and environmental protection issues, including brownfield redevelopment.
Total	\$9,576	\$3,683	

(Table notes on next page)

**Appendix II
Brownfield-Related Funds and Activities
Included in EPA Awards for Outreach,
Technical Assistance, Research, and Job
Training, Fiscal Years 1993 Through 1997**

Note 1: Unless otherwise noted, funds were provided by EPA's Outreach and Special Projects Staff.

Note 2: Funding associated with brownfield activities includes funding from Superfund, EPA's general funds, and other sources.

^aAn interagency agreement with the Department of Housing and Urban Development.

^bFunded by EPA's Office of Policy, Planning, and Evaluation.

^cA total of \$220,000 was funded by EPA's Office of Policy, Planning, and Evaluation; the remaining \$30,000 was funded by EPA's Outreach and Special Projects Staff.

^dFunded by EPA Region 5.

^eFunded by the Outreach and Special Projects Staff with general funds rather than EPA's brownfield allotment.

^fFunded by EPA's Office of Small and Disadvantaged Business Utilization.

Source: GAO's analysis of award files maintained by EPA's Office of Grants Administration and Outreach and Special Projects Staff.

Comments From the Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

FEB 27 1998

Mr. Lawrence J. Dyckman
Associate Director
Environmental Protection Issues
Resources, Community, and Economic Development Division
U.S. General Accounting Office

Dear Mr. Dyckman:

Thank you for the opportunity to review and comment on the draft report Superfund: EPA's Use of Funds for Brownfields Revitalization (GAO/RCED-98-87). We appreciate the diligent effort put forth by your staff throughout this review, and we believe that the draft report is generally accurate in its description of EPA's Brownfields program. EPA's Offices of Solid Waste and Emergency Response (OSWER), General Counsel (OGC), and Policy, Planning, and Evaluation (OPPE) have reviewed the draft report and have some general comments as indicated below. Specific page-by-page editorial suggestions are contained in a separate enclosure with this letter.

Types of Assistance Agreements Used to Support Brownfields Activities

It is important to note that there are five different types of assistance agreements used by the Outreach and Special Projects Staff (OSPS) to support activities related to the Brownfields initiative. Each type of agreement is subject to different statutory and programmatic requirements:

- a. CERCLA §104(d) cooperative agreements are used for pilot assessments, capitalization of revolving loan funds for cleanup, and the enhancement and development of state voluntary cleanup programs;
- b. CERCLA §311(b)(9)(A) grants and cooperative agreements are used for training in removal and handling of hazardous wastes;
- c. CERCLA §311(c) grants and cooperative agreements are used for research related to the detection, assessment and evaluation of the effects of hazardous substances in the environment and the detection of hazardous substances;

**Appendix III
Comments From the Environmental
Protection Agency**

d. RCRA §8001 grants and cooperative agreements are used to support and promote the coordination of research, demonstrations, investigations, training, experiments, studies, surveys, and public education programs relating to solid waste and hazardous waste management; and

e. "Split funded" agreements combine funds from the Agency's Hazardous Substance Superfund appropriation with funds from its Environmental Program and Management (EPM) Account.

The draft report, however, does not clearly or consistently identify which awards are being discussed. This may inadvertently create confusion as to whether awards have been made for authorized purposes. We suggest that when a specific agreement is referred to in the text of the report or identified in Appendix II that the funding source be specified.

Use of Brownfields Funds

In more than one instance, the draft report states that Brownfields funds are used to "clean up and revitalize brownfield sites." This statement fails to account for the main focus of EPA's pilot projects, which address the assessment portion of our work. We suggest (as indicated in the enclosure) that the word 'assessment' be added throughout the report in each case where the various uses of Brownfields funds are discussed.

Job Training Funding

Table 1 (page 6) indicates a 1833% increase in funding directed to job training from fiscal year (FY) 1997 to FY 1998. This percentage increase and the accompanying figure for planned FY 1998 obligations can be misleading without the appropriate background information.

Prior to FY 1998, OSPS did not use Superfund money for job training, some tribal initiatives, and some environmental justice issues, and as a result, environmental program management (EPM) dollars were used in these cases. OSPS's total EPM allocation each year is \$.8 million. In FY 1997, we decided to limit spending in job training because of greater needs in tribal or environmental justice initiatives. Part of this decision was based on the expectation that there would be a \$2 million increase in FY 1998 in Superfund resources for job training as a result of the President's environmental commitment.

It is equally important to note that \$3 million in Superfund resources of the \$5.8 million listed under planned FY 1998 obligations has been allocated directly to the National Institute of Environmental Health Sciences (NIEHS) for existing worker safety training programs. We suggest that both of these points be added as a footnote to the table.

University of Maryland at Baltimore

As OSPS staff conveyed to your evaluators during the course of this review, we do not consider the grant awarded to the University of Baltimore to be a "brownfields" grant. The funds granted

Now on p. 5.

**Appendix III
Comments From the Environmental
Protection Agency**

the university are used to design and conduct a generic curriculum related to hazardous substances, of which brownfields is just a part. Brownfields issues are not a major focus of the grant and therefore should not be identified as such. In addition, not all of the grants listed in Appendix II are Brownfields grants, and some were funded for more than one purpose. A clearer indication of this at the beginning of the table would be helpful to the reader.

OPPE Assistance Agreements

Page 9 of the text describes grants awarded by OPPE. The second sentence under this heading states that "... EPA awarded a \$45,000 cooperative agreement in fiscal year 1997 for a 2-day conference and workshop on brownfield issues specifically affecting developers and lenders." This information is incorrect. In fact, EPM appropriation funds, not Superfund dollars, were used to fund this cooperative agreement. While there were clear benefits to the brownfields redevelopment effort, the conference was not intended to primarily benefit brownfields assessment, cleanup, and reuse. The accuracy of the following sentence and the information contained in Appendix II is subsequently affected, and we have included suggested changes to both in the enclosure to this letter.

Award Criteria

Pages 3 and 11 of the report discuss award criteria. As corrected in the enclosure, awards for outreach, technical assistance, research and job training need only meet one of the four criteria established by the Administration's May 1997 Brownfields National Partnership Action Agenda. Also, the report may inadvertently create the impression that OSPS made noncompetitive awards of financial assistance without adequate justification.

As GAO recognizes, the Federal Grant and Cooperative Agreement Act (31 U.S.C. §6301(3)) encourages, but does not require, competition where appropriate to identify and fund the best possible projects to achieve program objectives (Principles of Federal Appropriations Law, Second Edition, Volume II, p. 10-16 [December 1992]). The guidance on competition for assistance agreements issued by EPA's Office of Administration and Resources Management (OARM) in December 1995 provides that competition is not required when there is adequate justification such as:

- a. when there is compelling evidence that a recipient has unique or superior qualifications to the extent that no other source could fulfill the project/program's objectives, and;
- b. when the Agency receives an unsolicited proposal offering unique ideas.

The noncompetitive awards made by OSPS met one or both of these standards. Moreover, most of the EPA financial assistance for Brownfields activities is awarded competitively for pilot assessments and to capitalize revolving loans for cleanup.

Now on p. 7.

Now on pp. 2 and 8.

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Comments From the Environmental
Protection Agency**

Now on p. 11.

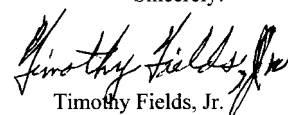
Project Officer Oversight/Monitoring of Grant Recipients

Page 15 of the report contains the following statement: "While guidance from EPA's Office of Administration and Resources Management [OARM] did encourage [project] officers to conduct both on-site visits to recipients and more formal semi-annual or annual project reviews, the project officers for our sample of 24 awards did not conduct these activities."

The report does not cite the relevant OARM guidance. Agency policy requires an annual on-site formal review for assistance agreements provided to support continuing state environmental programs (EPA Policy on Performance Based Assistance, pp. 5 and 6 [May 31, 1985]). These agreements typically provide financial assistance so that states can operate delegated environmental programs and activities on a continuing basis, which are significantly different from most Brownfields projects. It is true that OARM's project officer training "strongly encourages" mid- and end of year reviews for other types of financial assistance. However, project officer training is designed to promote "best practices" appropriate to each grant rather than to establish rigid requirements. Notwithstanding the value added by formal on-site reviews, resource constraints and other practical considerations preclude OSPS from conducting them in cases in which the monetary value of the agreement is relatively small. OSPS maintains that the project officers have met with the spirit of the project officer training by conducting informal site visits throughout the life of the assistance agreements.

Thank you for the opportunity to comment on the draft report. If you have any questions, please have your staff contact Linda Garczynski, Director, Outreach and Special Projects Staff, at 202-260-4039.

Sincerely:



Timothy Fields, Jr.
Acting Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency

Enclosure

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