RLF 101
The Loan Process from Beginning to End
The Loan Process from Beginning to End

- Purpose of RLF is to cleanup brownfields sites in accordance with redevelopment goals
  - Cost-Effectiveness
  - Timeliness
  - Avoidance of adverse effects
  - Benefits local community
- RLF recipient responsible for all provisions of environmental cleanup
The Loan Process from Beginning to End

- Sites will be cleaned up following state VCP programs.
- Cooperative agreement requires specific steps in planning, conducting and completing environmental cleanups.
- This session is a review of these steps so you and your borrowers and subgrantees will reach your redevelopment goals.
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Site & Borrower/Subgrantee Eligibility

- The RLF recipient (Lead Agency) is responsible for determining site & borrower/subgrantee eligibility
- They must determine & document that:
  - The site is an eligible Brownfields site;
  - The cleanup activities funded by the loan/subgrant are eligible;
  - The borrower/subgrantee is eligible to receive EPA funds (not liable under CERCLA 107).
Site & Borrower/Subgrantee Eligibility

• EPA will assist in this determination.
• State or EPA will make petroleum determination.
• The use of applications with ownership, acquisition, and prior use questions can be helpful in gathering the information needed to determine the site & borrower/subgrantee eligibility.
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Public participation is a critical element of all brownfields cleanups.

The public must be informed of the site cleanup activities and be afforded the opportunity to comment on the relevant cleanup documents.

Community involvement activities must be:

- Completed prior to the cleanup of sites
- Continue through each step of the cleanup
Planning for Community Involvement

• Designate a Community Relations Spokesperson
  ✓ Employee of Lead Agency
  ✓ Responds to inquiries
  ✓ Provides information concerning the cleanup activities

• Establish an Information Repository
  ✓ Public access location such as City Hall or Library
  ✓ Contains public documents related to site and Administrative Record

• Prepare a Community Involvement Plan
  ✓ Prepare before public review period
  ✓ Can be prepared by Lead Agency or borrower/subgrantee
  ✓ Lead Agency responsible for ensuring compliance
Community Involvement Plan Contents

- Overview of Project
- Spokesperson & Information Repository
  - Name & Contact Information of Spokesperson
  - Location, Address and Website of Information Repository
- Site Description
  - Location & Address
  - History of Use and Ownership
  - Nature of Threats to Public Health & Environment
Planning for Community Involvement

- Community Involvement Plan Contents (continued)
  - Community Background
    - Community Profile
    - Past Community Involvement
    - Key Community Concerns
    - Benefits to Targeted Community
  - Continued Community Involvement
    - Current and Future Activities
    - Plans for 30-day comment period for Administrative Record
  - Proposed Project Schedule

- Your plan must be reviewed and approved by EPA
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Establishing the Administrative Record

- Contains all relevant site information and cleanup documents
- Placed in Information Repository for public access
Establishing the Administrative Record

• Administrative Record may include:
  ✓ Eligibility Determination
  ✓ Community Involvement Plan
  ✓ ABCA or equivalent
  ✓ Phase I & II Reports
  ✓ Cleanup Planning Reports
  ✓ Remedial Action Plans (may include ABCA)
  ✓ Loan and subgrant agreements
  ✓ Other documents related to cleanup
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Analysis of Brownfields Cleanup Alternatives (ABCA)

• Ensures that appropriate cleanup method is selected for the site
• Usually prepared by the borrower’s or subgrantee’s Qualified Environmental Professional (QEP)
• Contains:
  ✓ Site History & Contamination Issues
  ✓ Cleanup Standards
  ✓ Applicable Laws (Federal, State & Local)
  ✓ Alternatives Considered
  ✓ Proposed Cleanup Alternative
• May be part of or addendum to the Cleanup Plan
• Alternatives
  ✓ Must include comparison of proposed cleanup action and a “no action” alternative.
  ✓ May include additional alternatives as appropriate.
  ✓ Each alternative must discuss:
    ➢ Effectiveness
    ➢ Implementability
    ➢ Cost
    ➢ Ability to achieve cleanup standards
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
-Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Conducting Community Involvement

- Begins once Administrative Record is established and ABCA is completed.
- Depending on circumstances, you or the borrower/subgrantee will provide public notice of availability of administrative record, including ABCA.
- Notice to be placed in:
  - Major Local Newspaper (This is a must)
  - Website
  - Cable TV
  - Newsletters
Conducting Community Involvement

- The notice contains:
  - Description of Project
  - Location of Administrative Record
  - Contact Information of Spokesperson
  - Request for comments
  - Method and location for receipt of comments

- Provides for a 30-day or adequate comment period.

- If appropriate, conduct a public meeting during the comment period to help solicit comments.
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Decision Document

- Identifies the selected cleanup alternative.
- Includes response to all relevant comments during public comment period.
- Documents changes in final cleanup plan.
- Can be a letter, memo or included in final cleanup plan.
- Usually prepared by the borrower’s or subgrantee’s QEP.
The Loan Process from Beginning to End

• Site & Borrower/Subgrantee Eligibility
• Planning for Community Involvement
• Establishing the Administrative Record
• Analysis of Brownfields Cleanup Alternatives (ABCA)
• Conducting Community Involvement
• Decision Document
• Loan & Subgrant Documents
• Meeting Federal & State Environmental Requirements
• Performing an Environmental Cleanup
• Documenting the Environmental Cleanup
Loan & Subgrant Documents

- Make sure roles are clear
  - Focus on roles of Lead Agency and Borrower/Subgrantee
  - Not contractors or other parties

- Make sure process flows logically
  - Pay specific attention to cleanup steps
  - Make sure all cleanup and administrative requirements are clear
Loan & Subgrant Documents

• Make sure you include everything
  ✓ This is where your legal support is key
  ✓ Required clauses from the RLF Terms & Conditions
  ✓ Applicable federal & state environmental requirements
  ✓ Applicable federal cross-cutting requirements
  ✓ Applicable local requirements

• Prepare a complete package that includes:
  ✓ Loan or Subgrant Agreement
  ✓ Promissory Note or Mortgage
  ✓ Cover memo, resolutions, agreements, etc.
Loan & Subgrant Documents

• Creative Loan Terms & Tools
  ✓ Deferred Payments
    ➢ Can be useful for challenging projects but make sure it doesn’t create perception of looking like a subgrant
  ✓ Loan Guarantee Options
    ➢ Traditional mortgage
    ➢ For government entities as the borrower:
      – Tax Increment Financing (TIF) $$
      – Developer contribution
      – General Obligation Funds
  ✓ Grantee authorization for incurring eligible costs prior to execution of loan document
• Creative Loan Terms & Tools (continued)
  ✓ Incorporate adequate contingency in the loan to cover unexpected costs encountered during site cleanup
  ✓ Evaluate Creative Loan Repayment Options
    ➢ State Grant Funds
    ➢ TIF $$
    ➢ Balloon payments
    ➢ Capture Percentage of Proceeds from Post-Cleanup Sale of Property
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Meeting Federal & State Environmental Requirements

• Federal Requirements
  ✓ RLF Terms & Conditions
  ✓ CERCLA 104(k)
  ✓ Davis Bacon Act
  ✓ Historic Preservation Act
  ✓ 40 CFR 31 & OMB Circular A-87 for government entities
  ✓ 40 CFR 30 & OMB Circular A-122 for non-profits
  ✓ 40 CFR 30 & OMB Circular A-21 for educational institutions
  ✓ Executive Orders
Meeting Federal & State Environmental Requirements

- Federal Requirements (continued)
  - MBE/WBE
  - OSHA Worker Health & Safety
  - Uniform Relocation Act
  - Endangered Species Act
  - Clean Water Act
Meeting Federal & State Environmental Requirements

- State Environmental Requirements
  - State VCP program or equivalent
  - Other appropriate cleanup program (Asbestos & Lead, Petroleum & USTs, etc)
The Loan Process from Beginning to End

- Site & Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Performing an Environmental Cleanup

- Final Approved Cleanup Plan
- QAPP
- Cleanup Oversight
- Institutional Controls
- Monitoring
Performing an Environmental Cleanup

• Final Approved Cleanup Plan
  ✓ Borrowers and subgrantees must adhere to requirements contained in the final approved cleanup plan.
  ✓ Any changes or variations must be coordinated with QEP and appropriate state program.

• Quality Assurance Project Plan (QAPP)
  ✓ Required for any confirmatory and/or post-cleanup monitoring sampling.
  ✓ Must be approved by EPA prior to start of cleanup.
Performing an Environmental Cleanup

• Cleanup Oversight by the Lead Agency QEP
  ✓ The QEP will make appropriate site visits to ensure that cleanup is being completed in accordance with approved plans.
  ✓ The QEP will document site visits and cleanup progress meetings.
  ✓ The QEP will assess cleanup progress to aid in making payments for work completed.
  ✓ The QEP will review the final cleanup documentation for compliance with state requirements.
The Loan Process from Beginning to End

- Site and Borrower/Subgrantee Eligibility
- Planning for Community Involvement
- Establishing the Administrative Record
- Analysis of Brownfields Cleanup Alternatives (ABCA)
- Conducting Community Involvement
- Decision Document
- Loan & Subgrant Documents
- Meeting Federal & State Environmental Requirements
- Performing an Environmental Cleanup
- Documenting the Environmental Cleanup
Documenting an Environmental Cleanup

• The borrower’s or subgrantee’s QEP will complete closeout documentation and submit the following to the state:
  ✓ Cleanup actions completed and any modifications to the cleanup plan
  ✓ Confirmation that cleanup actions met the established cleanup levels documented in final cleanup plan, including results of confirmatory sampling
  ✓ Resources committed to the cleanup actions
  ✓ Any problems encountered and how they were resolved

• The state will review the documentation and prepare a final approval letter
Questions?