

US EPA ARCHIVE DOCUMENT

# CHECKLIST OF CONSIDERATIONS RLF LOAN & SUBGRANT DOCUMENTS

Revised 7/14/2011

This document is provided to all regions to establish a baseline checklist of items during the review of a loan or subgrant document under the Revolving Loan Fund (RLF) Program. This is not a mandatory checklist for every loan or subgrant. Use of this checklist can provide national consistency in the implementation of the RLF Program.

If information on any of these items is located in another document, please note that in the comment box so that a clear record can be established for use at a later date if need be.

As used in this checklist, the word “document” refers to the RLF loan or subgrant document prepared by the grantee and signed by the borrower or subgrantee.

GRANTEE NAME \_\_\_\_\_

GRANT NUMBER \_\_\_\_\_

SITE NAME \_\_\_\_\_

## 1. GENERAL FEDERAL REQUIREMENTS

- Does the loan/subgrant document require the borrower/subgrantee to comply with the relevant requirements of CERCLA 104(k)?  
[Source: National Program Policy, and Terms and Conditions](#)  
Comment: \_\_\_\_\_
- Are the definitions of terms which are also defined in CERCLA (e.g., “hazardous substance,” “pollutant or contaminant,” etc.) exactly the same as the CERCLA definitions? Refer to Administrative Manual Appendix B.  
[Source: National Program Policy, and Terms and Conditions](#)  
Comment: \_\_\_\_\_
- Does the recipient of the RLF grant affirm that it is not a PRP at the site at which the loan/subgrant will be used?  
[Source: Statutory, and Terms and Conditions](#)  
Comment: \_\_\_\_\_
- Does the loan/subgrant document affirm that the site is an eligible Brownfield site and the borrower/subgrantee is an eligible applicant? Specifically, is the borrower/subgrantee a PRP at the site at which the loan/subgrant will be used?  
[Source: Statutory, and Terms and Conditions](#)  
Comment: \_\_\_\_\_

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- Does the loan/subgrant document have a term and condition, or other legally binding provision, that the borrower and/or subgrantee will comply with all applicable Federal and State laws and requirements?  
 Source: [Administrative Manual Appendix G, and Terms and Conditions](#)  
 Comment: \_\_\_\_\_

- Does the loan/subgrant document provide information on compliance with Davis-Bacon?  
 Source: [Terms and Conditions](#)  
 Comment: \_\_\_\_\_

- Does the loan/subgrant document provide information on how the Cooperative Agreement Recipient (CAR) or the borrower/subgrantee will meet the requirements of the National Historic Preservation Act?  
 Source: [Terms and Conditions, Administrative Manual Chapter 6](#)  
 Comment: \_\_\_\_\_

- If appropriate, does the loan/subgrant document provide information on how the CAR or the borrower/subgrantee will meet the requirements of the Endangered Species Act?  
 Source: [Terms and Conditions, Administrative Manual Chapter 6](#)  
 Comment: \_\_\_\_\_

**2. ADMINISTRATIVE REQUIREMENTS**

- Does the loan/subgrant document include reporting responsibilities such as quarterly reports (if appropriate), documentation of fund uses, documentation of compliance, etc.?  
 Source: [RLF Administrative Manual, 40 C.F.R. § 31.51/40 C.F.R. § 31.40, and Terms and Conditions](#)  
 Comment: \_\_\_\_\_

- Does the loan/subgrant document include the terms of the contract and the dollar amount?  
 Source: [National Program Policy](#)  
 Comment: \_\_\_\_\_

- Does the loan/subgrant document include the site name and site description subject to the cleanup work to be funded under the RLF?  
 Source: [National Program Policy](#)  
 Comment: \_\_\_\_\_

- If the agreement involves a subgrant:

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- Does the document ensure that the subgrantee is eligible for granted funds, including that the subgrantee is not a PRP at the site?  
[Source: Statutory](#)
  
- Does the document require the recipient of funds to retain fee simple title (or, in the case of tribal trust land, equivalent ownership status) to the property during the life of the agreement?  
[Source: Statutory](#)
  
- If the agreement involves a subgrant of more than \$200,000 to cleanup a single site, has a waiver request been approved by OBLR?  
[Source: National Program Policy](#)
  
- With this subgrant, does the total amount of subgranted funds remain less than 40% of the total award? If not, did the grantee ask for and receive a waiver to allow for subgranting more than 40% of the grant funds? (Note: Cooperative Agreements awarded in FY11 will have the ability to award 50% of the funds as subgrants without a waiver.)  
[Source: National Program Policy](#)
  
- Does the document require that the subgrantee follow federal procurement regulations?  
[Source: National Program Policy, Terms and Conditions, and federal regulations](#)
  
- Has the cooperative agreement recipient provided documentation, in a memo for the file, that demonstrates that they took into consideration:
  - (i) The extent the subgrant will facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;
  
  - (ii) The extent the subgrant will meet the needs of a community that has the inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;
  
  - (iii) The extent the subgrant will facilitate the use or reuse of existing infrastructure; and
  
  - (iv) The benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation.

[Source: Statutory, and Terms and Conditions](#)

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Comments: \_\_\_\_\_

**3. FINANCIAL ADMINISTRATIVE REQUIREMENTS**

- Does the loan/subgrant document include some list or exhibit of eligible activities for this site [i.e., an exhibit detailing the selected cleanup plan or work plan]?

[Source: National Program Policy](#)

Comment: \_\_\_\_\_

**4. RLF ENVIRONMENTAL REQUIREMENTS**

- Does the loan/subgrant document acknowledge the preparation of, or requirement for, an Analysis of Brownfield Cleanup Alternatives (ABCA); a Community Involvement Plan (CIP); a Quality Assurance Project Plan (QAPP) or equivalent; the establishment of an administrative record; and a public comment period on the proposed cleanup?

- Does the loan/subgrant document provide for the preparation of Health & Safety Plans by all contractors and subcontractors undertaking cleanup activities funded by the loan?

[Source: Terms and Conditions, OSHA, and CFR 19.10 Part 120](#)

Comment: \_\_\_\_\_

- Does the loan/subgrant document allow the CAR to access and secure the site in the event of default or if the cleanup is not completed?

[Source: Terms and Conditions](#)

Comment: \_\_\_\_\_

- Does the loan/subgrant document bind the borrower/subgrantee to enter the appropriate State VCP or other response program? If not, does the document identify how the CAR will determine that the proposed cleanup is protective of human health and the environment? Has the CAR consulted with EPA on this matter?

[Source: Terms and Conditions, Administrative Manual Chapter 6](#)

Comment: \_\_\_\_\_

- If confirmation sampling and analysis will be conducted as part of the cleanup, does the document provide for the submittal of a Quality Assurance Project Plan by the environmental professional that will conduct the sampling and prior to the initiation of any sampling done with RLF funds or cost share? This QAPP, or its equivalent may be submitted to EPA or, if appropriate, the State Response Program for review and approval.

[Source: EPA Order 53601.1, April 1984, as amended](#)

Comment: \_\_\_\_\_

- Does the loan/subgrant document require the borrower to issue a decision document or equivalent (i.e., response to comments and documentation of any changes to the final

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cleanup plan) upon completion of the public comment period?

Source: [Administrative Manual Chapter 6](#)

Comment: \_\_\_\_\_

- Does the loan/subgrant document reflect that the borrower must consult with the relevant state program or EPA to determine if the cleanup plan requires formal modification based on public comments or new information?

Source: [Administrative Manual Chapter 6 and National Program Policy](#)

Comment: \_\_\_\_\_

**5. REVOLVING LOAN FUND REQUIREMENTS<sup>1</sup>**

- Will the loan be made before the remedy is selected and documented by the CAR? If so: does the loan document reflect that the loan is conditioned upon completion of an ABCA and the response to public comments?

Source: [National Program Policy, CERCLA 104\(k\)\(5\)\(A\)\(i\)\(II\)](#)

Comment: \_\_\_\_\_

- Does the loan/subgrant recipient commit to tracking/reporting/drawing funds based on petroleum versus hazardous substances if both are co-mingled in a loan or subgrant?

Source: [Terms and Conditions](#)

Comment: \_\_\_\_\_

**6. DISBURSEMENT, PAYMENT AND CLOSEOUTS**

- Are the loan payment terms based on the borrower's "cost incurred" or "progress payments" rather than a "lump sum" payment the borrower can bank? Subgrants can be paid out in advance but only on the basis of the subgrantee's immediate cash needs.

Source: [Terms and Conditions, 40 C.F.R. § 31.21\(c\)/40 C.F.R. § 31.21 /40 C.F.R. § 30.22](#)

Comment: \_\_\_\_\_

- Does the loan/subgrantee document require the borrower/subgrantee to document the use of all funds, to maintain documentation and access to records such that the CAR is in compliance with 40 C.F.R. § 31.42 for three years after submission of the CAR's final financial status report, unless any claim, negotiation, audit or other action involving records begins before the expiration of the 3-year retention period?

Source: [Administrative Manual, 40 C.F.R. § 30.53 or 40 C.F.R. § 31.42](#)

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<sup>1</sup> The national Brownfields program and many regions have adopted "Clean and Green" policies to promote the reduction of environmental impacts associated with EPA cleanups. As such the CAR is required through their terms and conditions to demonstrate in project documents (though not necessarily loan documents) their best efforts to incorporate renewable energy technologies into cleanup and redevelopment projects, where appropriate. The CAR is also required to document these best efforts. All other requirements flow from regional policy.

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Comment: \_\_\_\_\_