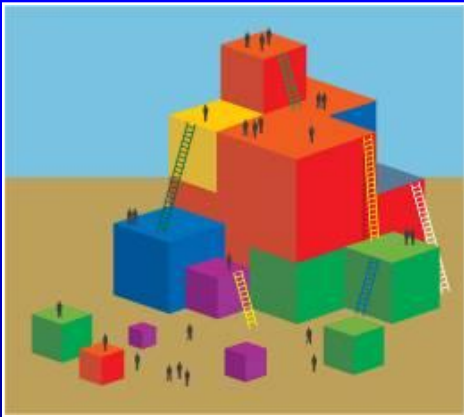


US EPA ARCHIVE DOCUMENT

# NJIT TAB & USEPA RLF Workshop October 13 & 14, 2010

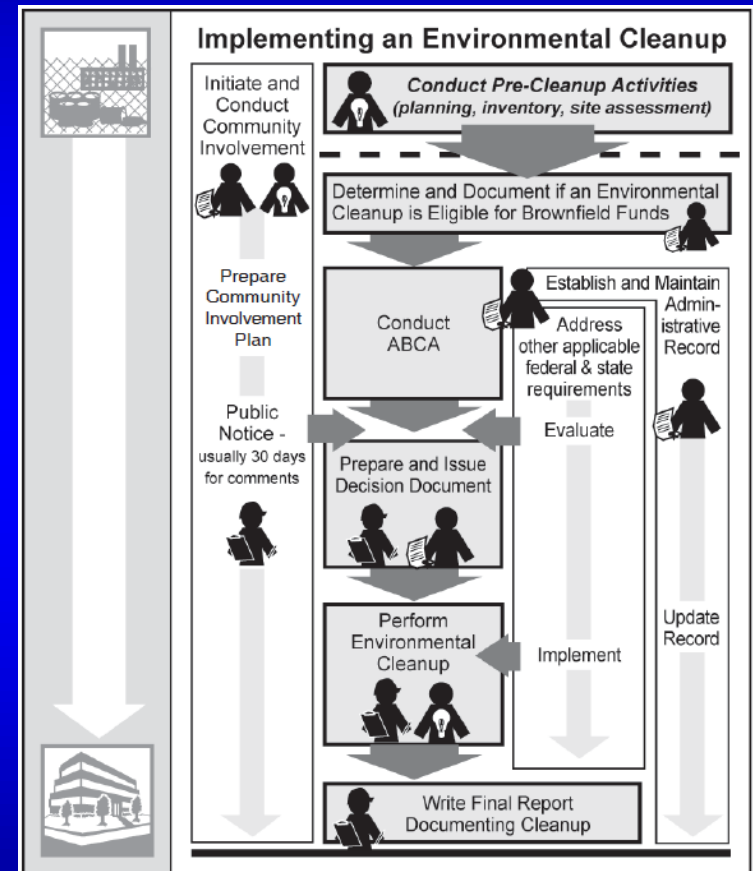


RLF 101  
The Loan Process from  
Beginning to End



# 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
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- 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.





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# Planning for Community Involvement

- 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



# Planning for Community Involvement

- 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





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# 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



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# 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



# Analysis of Brownfields Cleanup Alternatives (ABCA)

- 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





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# 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.



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# 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.





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# 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.



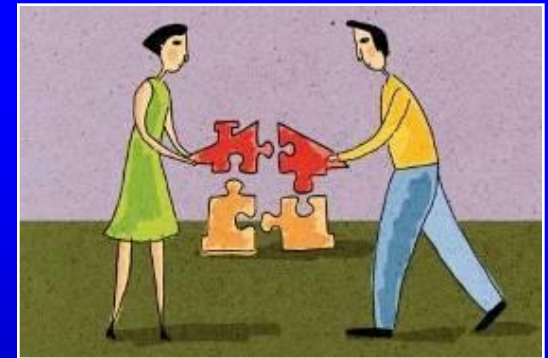
# Loan & Subgrant Documents

- 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



# Loan & Subgrant Documents

- 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

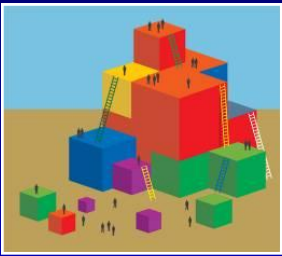




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# Meeting Federal & State Environmental Requirements



- 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

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# 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 sites 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





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# 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?

