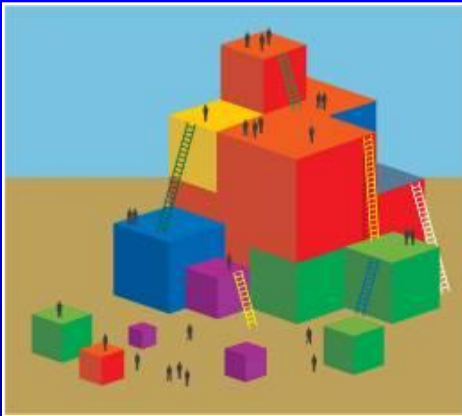


NJIT TAB & USEPA RLF Workshop October 13 & 14, 2010

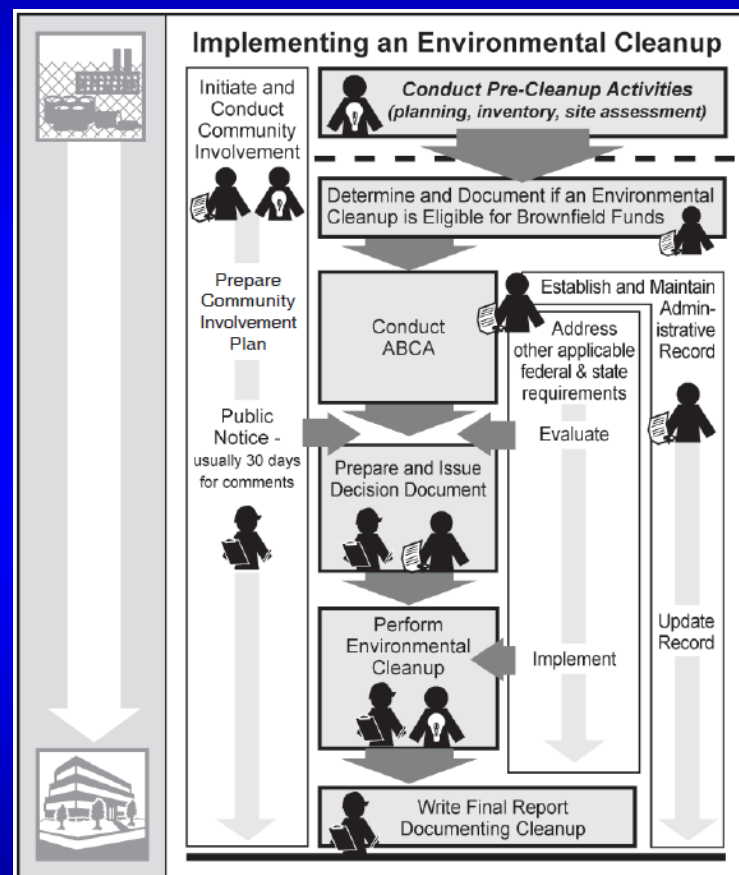


RLF 101
The Loan Process from
Beginning to End



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
- Decision Document
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- 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

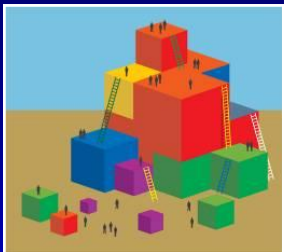
- EPA will assist in this determination.
- State or EPA will make petroleum determination.
- The use of applications with ownership, acquisition, and prior use questions can be helpful in gathering the information needed to determine the site & borrower/subgrantee eligibility.





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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

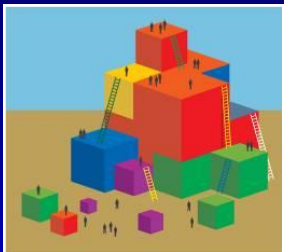
- Community Involvement Plan Contents (continued)
 - ✓ Community Background
 - Community Profile
 - Past Community Involvement
 - Key Community Concerns
 - Benefits to Targeted Community
 - ✓ Continued Community Involvement
 - Current and Future Activities
 - Plans for 30-day comment period for Administrative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



The Loan Process from Beginning to End

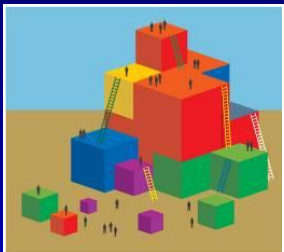
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Decision Document

- 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

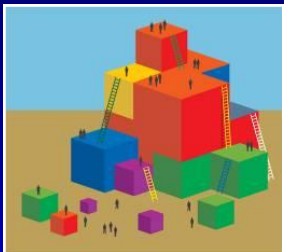




Meeting Federal & State Environmental Requirements

- State Environmental Requirements
 - ✓ State VCP program or equivalent
 - ✓ Other appropriate cleanup program (Asbestos & Lead, Petroleum & USTs, etc)





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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?

