

EPA REVOLVING LOAN FUND
Policy and Procedures
Grand Traverse County

Approved May 25, 2011

I. INTRODUCTION

The United States Environmental Protection Agency (EPA) has awarded Grand Traverse County, Michigan a \$1 million Revolving Loan Fund (RLF) grant to support cleanup activities and subsequent redevelopment of brownfield sites throughout Grand Traverse County.

The Grand Traverse County RLF is administered through the Grand Traverse County Brownfield Redevelopment Authority (GTCBRA) and offers loans for cleanup related activities on qualified, suitable, market-ready sites to appropriate developers and buyers. The loans will help to fund the remediation required for site cleanup, which will then allow redevelopment projects to go forward.

A premise of the GCLBA lending program is that “gaps” exist in traditional lending markets for funding for brownfields cleanup activities. This program provides assistance to those property owners that need assistance. Brownfields are properties that have been impacted from historical activities and where the expansion, redevelopment, or reuse may be complicated by these historical activities. Grand Traverse County is dedicated to building a partnership between its citizen’s, developers and the regulatory authorities in order to return Brownfield properties to active and appropriate reuse. To facilitate this partnership, Brownfield incentives are available in the County and are provided to assist developers with the extra-ordinary costs of redeveloping impacted properties. This policy is provided to ensure that projects that use County Brownfield incentives:

- Encourage redevelopment investment that will produce new jobs.
- Focus on projects that benefit the environment by reducing urban sprawl, for example by incentivizing affordable housing in urban, core areas.
- Focus on projects that benefit the environment by protecting the environment, especially the Grand Traverse Bay watershed, and public health.
- Encourage specific types of development appropriate to the neighborhood and surrounding community while recognizing market conditions.

The GTCBRA is responsible for the implementation of the EPA RLF during the five-year term (September 2010 – September 2011) of the grant and subsequent to the fulfillment of the terms of the grant. The Comprehensive environmental Response, Compensation and Liability Act (CERCLA or the Superfund Law) was amended by the Small Business Liability Relief and Brownfields Revitalization Act to include section 104(k) which provides federal financial assistance for brownfields revitalization, including providing grants for the purpose of

establishing a loan fund for cleanup of contaminated sites. Loans executed under this grant will be in compliance with the applicable federal statutes.

The guidelines outlined herein are intended to provide a foundation upon which sound loan decisions can be made. The procedures are designed to provide flexibility to best serve individual applicants. The basis of loan decisions will be similar to that of traditional lenders: character, capacity, capital, condition, and collateral. For example, character assessments and management capacity will be important in some cases; many small business owners will be inseparable and indistinguishable from their business. Each loan will be considered individually and allowances may be made based on circumstances and security conditions.

The GTCBRA is an equal opportunity lender, considering loan applications without regard to race, gender, national origin, or ethnic background.

II. ELIGIBILITY AND APPLICATION PROCESS

Loan application forms are included in Appendix A. The application document must be delivered to the Director of the Brownfield Authority. The current director is:

Jean Derenzy, Deputy Director
Grand Traverse County Planning and Development Office
400 Boardman Avenue
Traverse City MI 49684
231.922.4513
Fax: 231.922.4636
jderenzy@co.grand-traverse.mi.us

Please contact Ms. Derenzy prior to submittal.

Under the EPA RLF grant, the GTCBRA has assigned Jeff Vitton, Planner with GTC as the RLF Fund Manager. The GTC BRA has also retained a Qualified Environmental Professional (QEP) to perform technical administration and oversight of the RLF grant. Collectively, the GTCBRA Director, GTCBRA EPA RLF Fund Manager and the RLF QEP are referred to in this Policy as the RLF Management Team.

A. CONFLICT OF INTEREST

The GTCBRA shall not make EPA revolving loan funds available to a business entity if the owner of such entity, or any owner of an interest in such entity, is related by blood, marriage, law or business arrangement to a member of the GTCBRA board, any employee of the GTCBRA or Grand Traverse County, or a member of the GTCLBA which advises, approves, recommends or otherwise participates in decisions concerning grants, loans or the use of loan funds unless they declare a potential conflict of interest. The member disclosing a potential conflict shall refrain from discussing and voting on the matter. The GTCBRA retains the right to determine if a conflict of interest exists and may reject the application brought before it. An

officer, employee of the Board of Commission, or member of GTCBRA shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment or any other thing of monetary value, for himself or for another person, from any person or organization seeking to obtain assistance through either the Grand Traverse County Brownfield Program or the Grand Traverse County Land Bank Program.

Former GTCBRA, GTCLBA members and/or officers and staff are ineligible to apply for or receive loan funds while serving on the GTCBRA and/or GTCLBA and for a period of one year from the date of termination of his/her services.

B. ELIGIBLE APPLICANTS:

Prospective applicants wishing to use EPA RLF funding should meet the following criteria:

- The eligible applicant must be a financially sound corporation or sole proprietor wishing to redevelop a Brownfield which would result in an increase in taxable value.
- The applicant must have a conceptual redevelopment plan consistent with local zoning and area redevelopment, and must have a long-term maintenance plan for green space development.
- The applicant must have control over the property (either ownership or purchase option), and if not owned must have a signed access agreement.
- The applicant must have experience in the type of development proposed, or a team that possesses experience in redevelopment.

C. INELIGIBLE APPLICANTS:

An applicant that meets any or all of the following criteria:

- The applicant is responsible for the hazardous substance contamination identified at the property.
- The applicant did not conduct a Phase I ESA prior to purchase, or if the MDEQ did not affirm the BEA.
- The applicant is a Potentially Responsible Party (PRP) under Section 107 of the comprehensive Environmental Response, Compensation, and Liability Act (CERCLA.)
- Applicant is currently or was previously in noncompliance with state or federal environmental regulations
- Applicant was previously suspended, debarred or declared ineligible for Federal financial assistance programs

D. ELIGIBLE BROWNFIELD SITES:

In general, a site must meet the definition of a “brownfield site” provided in CERCLA to be eligible for funding. Brownfield sites are defined as “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”

At the GTCBRA, an eligible site meets the definition of a Brownfield and is a construction, redevelopment, renovation or reconstruction project eligible for RLF incentives in the County.

1. Eligible property must be located within Grand Traverse County.

2. Property is designated as an eligible property for one or more of the following;
 - The property possesses an actual release or substantial threat of release of a hazardous substance or petroleum contamination, or
 - Possesses a release or substantial threat of release of a pollutant or contaminant that may present an imminent or substantial danger to public health or welfare, or
 - The property is classified as a facility (as defined by Part 201 of PA451) by having identified hazardous substance contamination in soils or groundwater that is in excess of the unlimited residential closure criteria established by the MDEQ, or it is adjacent and contiguous to a facility and the development of the project is estimated to increase the captured taxable value of the parcel that is a facility.
3. The developer has, or will, submit a Baseline Environmental Assessment (BEA) to the MDEQ within six months of purchase or occupancy.
4. The development will ameliorate threats to public health or the environmental that were caused by site conditions through remediation, mitigation or control.

E. INELIGIBLE BROWNFIELD SITES:

A project cannot be eligible for RLF incentives in the County if any of the following apply:

1. The site on which development is proposed is not an eligible property as defined by Act 381.
2. The site is listed or proposed for listing on the National Priorities List
3. The site is subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA.
4. The site is subject to the jurisdiction, custody, or control of the United States government. (Note: Land held in trust by the United States government for an Indian tribe is eligible for brownfields funding.)
5. For petroleum contaminated sites:
 - The site is not of 'relatively low risk' compared with other 'petroleum only' sites in the state;
 - There is a viable responsible party for the site;
 - The site will not be cleaned up by an applicant that is potentially liable for cleaning up the site; and
 - The site is subject to any order under section 9003(h) of the Solid Waste Disposal Act (SWDA).

F. EPA RLF - ELIGIBLE PROJECT COSTS

Brownfield Revolving Loan Fund grants have been designated by the EPA for cleanup activities only. Brownfield Revolving Loan Fund activities must be removals as defined in CERCLA §101(23), and described in 40 C.F.R. §300.415. These activities are summarized below:

1. Actions associated with removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant, or contaminant (as appropriate to different

site situations), including:

- Fences, warning signs, or other security or site control precautions;
 - Drainage controls;
 - Stabilization of berms, dikes, or impoundments or drainage or closing lagoons;
 - Capping of contaminated soils;
 - Using chemicals and other materials to mitigate and/or retard the spread of the release or mitigate its effects;
 - Excavation, consolidation, or removal of highly contaminated soils;
 - Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants;
 - Containment, treatment, disposal, or incineration of hazardous materials; and
 - Provision of alternative water supply where necessary immediately to reduce exposure to contaminated household water and continuing until such time as local authorities can satisfy the need for a permanent remedy.
2. Site monitoring activities, including sampling and analysis that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup.
 3. Costs associated with meeting public participation, worker health and safety, and interagency coordination requirements.

G. EPA RLF - INELIGIBLE PROJECT COSTS

Loan funds shall not be used for the following purposes:

1. Pre-cleanup environmental response activities, such as site assessment, identification, and characterization.
2. Cleanup of a naturally occurring substance, products that are part of the structure of and result in exposure within residential buildings or business or community structures (e.g., interior lead-based paint contamination or asbestos which results in indoor exposure), or public or private drinking water supplies that have deteriorated through ordinary use—except as determined on a site-by-site basis and approved by U.S. EPA Headquarters, consistent with CERCLA §104(a)(3) and (4).
3. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other Federal and state laws, unless such a permit is required as a component of the cleanup action.
4. Development activities that are not removal actions (e.g., construction of a new facility or marketing of property).

H. APPLICATION AND ELIGIBILITY REVIEW

The GTCBRA has established an RLF Loan Application review subcommittee to review and evaluate applications from prospective borrowers. A copy of the application is provided in Appendix A. Flowcharts for the Application Review and Loan Implementation processes are provided in Appendix B. The application process is as follows:

1. Schedule an initial project meeting with the GTCBRA Director to introduce the proposed project with the RLF Management Team.

2. Submit the RLF Application Form to the GTCBRA. The following information must be included in the application;
 - Project description including sources and uses of funds
 - Business financial information for the development company
 - Brief history of the company, including a description of similar projects completed with references and contact information
 - Resumes of owners and/or key management
 - Schedule for redevelopment
 - Conceptual site plan
 - Legal description and associated maps of the project property
 - Cost estimates
 - Project budget
 - Purchase Agreement or Option to Purchase
 - Property appraisal
3. Upon receipt of the application the GTCBRA RLF loan application review subcommittee and RLF Management Team will conduct a review of project/borrower eligibility and a review of the feasibility and terms of the proposed loan.
4. A public notice for the public hearing will be placed by the GTCBRA in the local paper.
5. Upon eligibility and preliminary review by the subcommittee, RLF Management Team and EPA, a recommendation will be prepared by the subcommittee and consideration of the Application will be placed on the agenda for the next GTCBRA regular meeting.
6. Attend the GTCBRA meeting at which the Application will be considered.
7. Attend the public hearing
8. If the Application is approved, the GTCBRA will prepare a loan commitment letter and Development Agreement.
9. Upon receipt of the signed loan commitment letter loan closing documents will be prepared.

Eligibility review and credit analyses will be conducted by the GTCBRA staff. Project eligibility and credit analyses of the developer/development may include, but is not limited to, the following factors:

- Strength of business plan
- Experience of the proposed development team
- Legal structure of the applicant
- Applicant's financial status
- Applicant's record of earnings and cash flow
- Applicant's borrowing history
- Applicant's criminal history
- Bank and credit references
- Outlook for applicant's industry
- Economic viability of the project
- Applicant's ability to manage the cleanup project
- If the investment will provide an incentive to other development in the area

- How long the property has been vacant
- Existence of abandoned, blighted or functionally obsolete buildings
- Extent of remediation, clean-up or control proposed
- Reduction in urban sprawl
- Inclusion of sustainable features
- Benefit to the environment, specifically the watershed
- Amount of green space
- Amount of property tax generated
- Ratio of public assistance to private investment
- Amount of investment on a square foot basis
- Job retention and creation
- Type of development relative to existing zoning, use and neighborhood development

The GTCBRA will make eligibility determinations, on a case-by-case basis, for individuals with a history of arrest(s), indictment(s) or conviction(s).

Loan applications will be reviewed for standard underwriting criteria. The write-up may be forwarded to the GTCBRA members prior to the Board meeting or may be distributed at the meeting. Write-ups generally will include a summary of the business history, an assessment of management capabilities, a description of the products or goods/service sold by the applicant, an analysis of the market conditions, a list of the project costs along with a structure for the proposed financing, a description of the need for financing, an overview of the repayment ability, determination that the project is consistent with policy guidelines, and a brief statement regarding the overall environmental impact. Additionally, the Fund Manager will submit strengths, weaknesses, and recommendations for the credit. The credit write-up may be supplemented or replaced by a Loan Risk Assessment.

The GTCBRA, or other experts designated by the GTCBRA, on a case-by-case basis will determine appraisal requirements. They may not always be required because of the appraisal cost relative to loan size.

All loan decision authority rests with the GTCBRA.

I. APPLICATION COSTS

The initial meeting with the GTCBRA Director and RLF management Team will be free of charge. A non-refundable review fee of \$1,000 will be paid upon submittal of the application.

J. SCHEDULE

The approval process for a project that requests RLF funding described in this Policy is typically two to three months, depending on the timing of applications and submittals, completeness of the information provided, and the complexity of the impacts and selected remedies.

III. LOAN AGREEMENT IMPLEMENTATION

A. LOAN TERMS

The repayment period and amount of the loan will be determined on a case-by-case basis, considering the requested funding, the amount of the investment and the anticipated tax capture, as applicable.

The term of any loan awarded under the program will not exceed 10 years. Repayment of the loan will be by monthly payments of principal and interest. Generally, terms will be kept as short as practical in order to recycle funds. All conditions, including the loan term, will be evidenced by a promissory note, security documents, and other closing documents, as necessary, to be signed at closing.

The GTCBRA may, in support of its economic and community development goals, develop with public and non-profit Borrowers, flexible loan terms, which may, after review of the loan proposal, include the use of deferred forgivable loans and other terms.

B. EQUITY

When business owners can contribute equity/cash without impairing cash flow, equity will be required. For each individual loan the equity requirement will generally range from ten (10) to twenty (20) percent of the total project cost. Businesses may be required to inject funds into the project depending upon:

1. whether the business has adequate equity, generally determined to be defined as a debt-to-net worth ratio that is 4:1 or less;
2. the overall strength of the business;
3. collateral coverage; and
4. the availability of cash to put into the project.

These elements are all considered in determining the equity required for each project. Exceptions may be made on a case-by-case basis depending upon the particular project. It is GTCBRA's general philosophy that existing equity or previous cash injection into the business indicates a reasonable level of commitment to the business; therefore, consideration will be given to existing equity in determining new equity required as a result of the project being financed. If equity is not available, 100 percent financing can be considered if the applicant is otherwise eligible.

C. INTEREST RATES

Interest rates will be established to meet the needs of Borrowers while yielding income to support the administrative expenses of the GTCBRA and the GTC RLF program. The interest rate, as a general rule, will be less than or equal to the prime interest rate, but not less than zero percent. It is anticipated that interest rates will be between 0% and prime rate. The prime rate shall be the prime rate quoted in the *Wall Street Journal* or the maximum prevailing interest rate

allowed under State law. The interest rate will be fixed for the term of the loan. Deviations from the stated interest rate policy may be made when warranted to cover administrative costs. The GTCBRA will establish the rates, based on the ability of the entity to support the debt service, and the overall risk of the project. Repaid interest will be retained to pay administrative expenses of the program.

Interest will be strongly considered for the following situations:

1. Interest incurred by a developer for loans from a traditional lending institution related to the eligible activities of the proposed project will be reimbursed at an amount not to exceed 5%. The GTCBRA reserves the right to determine the appropriate rate of reimbursement it will approve as part of a brownfield plan for interest incurred by a developer at or below the 5% limit established above.
2. Interest will be reimbursed based on a simple interest calculation that is based on Eligible Activities identified in an approved brownfield plan. Actual interest costs incurred by the developer from a traditional lending institution may be higher due to compounding interest; however, GTCBRA interest will be limited to a simple interest calculation based on Eligible Activities in an approved brownfield plan.
3. Interest will not be paid on the reasonable costs of developing a brownfield plan or work plan or the costs of Michigan Economic Growth Authority (MEGA) review.

D. COLLATERAL

The GTCBRA will strive to obtain sufficient and adequate collateral to secure all loans while recognizing that shortfalls in security may exist. Collateral requirements will consider the merits and potential economic and community benefits of each request. Personal guaranties by all parties with more than 20% ownership interest will be required for each loan unless there is a sound justification included in the loan write-up and thereby approved by the GTCBRA. The value of pledged collateral (i.e.: Real Estate, Securities, Equipment, etc.) would be verified through a market analysis, appraisal, or other means that are deemed appropriate for the particular project. Liens will be placed on all collateral. Liens may also be placed on other non-project personal assets of the Borrower in order to further secure the loan. As an abundance of caution, the GTCBRA will secure its loans to the maximum extent possible to ensure an adequate secondary source of repayment.

Personal guarantees will be required of the principal Borrowers according to the circumstances involved. Additionally, a guarantee may be required of Borrowers' spouse, at the GTCBRA discretion, when legal and appropriate. "Key man" or term insurance also may be required, if warranted by the GTCBRA.

E. LOAN DISBURSEMENT REQUIREMENTS

Funds will be disbursed to the Borrower by means of "actual expense" or by a predetermined schedule. During the term of the Cooperative Agreement between EPA and Grand Traverse County, an "actual expense" disbursement approach requires the GTCBRA to submit

documentation of the Borrower's expenditures (e.g., invoices) to EPA to request payment. The "actual expense" disbursement approach is the preferred approach by the GTCBRA. A scheduled disbursement is one in which all, or an agreed upon portion, of the obligated funds are disbursed to the Borrower on the basis of an agreed upon schedule (e.g., progress payments) or upon execution of the loan. The GTCBRA shall submit documentation of disbursement schedules to EPA. If the disbursement schedule of the loan agreement calls for disbursement of the entire amount of the loan upon execution, the cooperative agreement recipient shall demonstrate to the GTCBRA and the U.S. EPA's Project Officer that this method of disbursement is necessary for purposes of cleaning up the site covered by the loan. Further, the cooperative agreement recipient shall include an appropriate provision in the loan agreement, which ensures that the Borrower uses loan funds promptly for costs incurred in connection with the cleanup.

IV. CLEANUP IMPLEMENTATION AND DOCUMENTATION

A. REMEDIATION TEAM MEMBERS

The following information is required for each remediation team member for the Borrower. Team members are defined to include all remediation contractors, environmental attorneys, environmental consulting firms or individual contractors who will be overseeing or conducting onsite work. The GTCBRA may request similar information, at its discretion, from other entities involved in the remediation efforts.

1. Name of Firm
2. Phone Number, Email address and Mailing Address
3. Primary Contact
4. Number of years in business
5. Number and description of experience on similar projects
6. Track record/interaction with regulatory agencies
7. Representation from firm regarding ability to do work
8. Licenses or certificates verifying firm is a professional corporation and as applicable, has on a staff a professional engineer qualified to provide a certificate that the remedy was implemented in conformance with the remedial action work plan
9. Insurance Coverage (the GTC RLF program requires a minimum of \$5 million in general liability and professional liability)
10. Resumes of principals-in-charge, senior managers and key personnel

B. STATE PARTICIPATION

All projects undertaken with GTCBRA funding will be required to also participate in the State of Michigan brownfields program. This requirement will be included in the loan or other financial assistance agreement for the following reasons:

1. This will allow the project to have access to all of the State of Michigan incentives for brownfield cleanup and redevelopment, which will assist in leveraging non-EPA funds.

2. This will require involvement of the State's environmental staff, ensuring coordination on cleanup activities and involvement of the applicable state and federal regulations.
3. The designation and redevelopment or reuse of a brownfield site or area requires the involvement of community residents and community partnerships; this will assist in meeting environmental justice and public outreach requirements. These requirements generally overlap with the public outreach requirements under the GTC RLF program.
4. This will ensure oversight or assistance in accordance with the Michigan Brownfields Redevelopment Act, CERCLA, and with the terms of the Superfund Memorandum of Agreement between EPA and Michigan.
5. A 381 Work Plan and/or Section 7a Compliance Analysis/Due Care Plan (Plan for Response Activity) approved by the Michigan Department of Environmental Quality (MDEQ) will help to ensure that human health and environmental protection needs are adequately addressed.

C. ANALYSIS OF BROWNFIELD CLEANUP ALTERNATIVES (ABCA)

The EPA and GTCBRA will require an analysis of cleanup alternatives (or equivalent), concerning the site characteristics, surrounding environment, land-use restrictions, potential future uses, and cleanup goals.

The Analysis of Brownfield Cleanup Alternatives (ABCA) must include:

1. Site background and environmental impact
 - a. Contaminants of concern
 - b. Exposure pathways
 - c. Identification of contaminant sources
2. Cleanup standards and applicable laws
3. Alternatives considered and a comparative analysis including;
 - a. Criteria of effectiveness
 - b. Implementability
 - c. The cost of each alternative
4. The proposed cleanup action

At a minimum, the ABCA must include a comparison of the proposed cleanup action and the "no action" alternative. As appropriate, additional cleanup alternatives may be included in the analysis. The ABCA should discuss whether/how each alternative would achieve the cleanup standards and applicable laws (Part 201).

The ABCA may be prepared as a separate document or incorporated into another document (e.g. MDEQ Act 381 Work Plan and/or Section 7a Compliance Analysis with a Plan for Proposed Response Activity).

D. COMMUNITY INVOLVEMENT

The GTCBRA will require public participation. Collectively, the RLF Project Team and Borrower will inform the public of site activities and give the public an opportunity to provide input on the proposed site cleanup and plans for redevelopment. The public will also have the opportunity to provide comment on the required documents (e.g. ABCA) drafted in preparation for the environmental cleanup and relevant comments will be considered as part of the final cleanup decision.

Administrative Record

The GTCBRA will establish an administrative record for each site under consideration. The administrative record will include all relevant site information and documents that form the basis for the selection of a cleanup. The administrative record will be available for review by the public and will include:

1. The eligibility determination of the site, the Borrower, and the proposed cleanup activities.
2. An ABCA or its equivalent.
3. A site-specific community plan for involving and informing the community during the cleanup process.
4. Documents and other information that form the basis for the selection of the final cleanup alternative. The documents will include, but may not be limited to:
 - a) Phase I environmental site assessment(s)
 - b) Phase II site investigation report(s)
 - c) An Act 381 Work Plan
 - d) Due Care Plans
 - e) Other technical reports, public health reports, sampling data etc., as deemed appropriate by the RLF Management Team and the proposed Borrower.

Public Outreach

Upon establishment of the administrative record, the GTCBRA will provide public notice of the availability of the administrative record and provide a public comment period allowing for the opportunity for written and oral comments from the public for the proposed project.

Depending on the size of the loan and as deemed appropriate by the GTCBRA, the terms of the loan may require additional outreach activities such as a site-specific project meeting to present and discuss the proposed cleanup and solicit comments from interested parties. This meeting may be held at the county Government Center or at the project site. Invitations for the meeting

would be sent to local officials and property owners, residents, and public interest groups within a radius of the project site.

D. ISSUING DECISION DOCUMENT

Upon completion of the ABCA and Community Involvement, the GTCBRA will issue a Final Record of Decision/Action memorandum that identifies the selected cleanup action for the site. The memorandum represents the County's authorization to implement the final approved cleanup plan.

E. MEETING ALL APPLICABLE FEDERAL AND STATE LAWS

As previously stated, RLF funds are authorized by the Brownfields law. The Borrower is required to conduct all cleanup activities under this program in accordance with applicable federal (see CERCLA section 104(K)(9)(B)(i)(I)) and state laws. Applicable federal and MDEQ environmental standards may address a particular hazardous substance, pollutant, contaminant, action, location, or other site-specific issue.

Cleanup activities conducted under the RLF program are required to comply with Part 201 of Michigan's natural Resources and Environmental Protection Act (NREPA), P.A. 451 of 1994. as amended.

In addition to CERLCA section 104(k), applicable federal laws and requirements include:

1. **Davis-Bacon Act of 1931.** CERCLA section 104 (g) requires that Borrowers comply with the prevailing wage rate requirements under the Davis-Bacon Act of 1931 for contracts "funded in whole or in part" with funds provided under the EPA RLF agreement. The RLF Borrower must obtain recent and applicable wage rates from the U.S. Department of Labor and incorporate them into the cleanup, alteration, construction or repair contract(s).
2. **Federal Procurement Practices.** The Borrower must comply with competitive bid, federal procurement practices set forth in Executive Order 13202 of February 17, 2001, entitled "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended by Executive Order 13208 of April 6, 2001, entitled "Amendment to Executive Order 13202."
3. **Utilization of Small, Minority and Women's Business Enterprises.** The Borrower must comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises; also referred collectively as Disabled Business Enterprises (DBE's) in procurement under assistance agreements, contained in 40 CFR, Part 33. The Borrower must make the following good faith efforts whenever procuring

construction, equipment, environmental cleanup and general services and supplies under an RLF project:

- a. Ensure DBE's are made aware of contracting opportunities to the fullest extent practicable, including placing DBE's on solicitation lists and soliciting them whenever they are potential bidders.
- b. Make information on forthcoming opportunities available to DBE's and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBE's in the competitive process.
- c. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs.
- d. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- e. Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

APPENDIX A:
GTCBRA LOAN APPLICATION

APPENDIX B:
GTCBRA EPA RLF Program Flow Chart

APPENDIX C:
Borrower Requirement

EPA REVOLVING LOAN FUND
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APPENDIX C
BORROWER REQUIREMENTS

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- d. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- e. Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.