



**Decide DeKalb**  
Development Authority

# **BROWNFIELDS REVOLVING LOAN FUND (BRLF) GUIDELINES & PROCEDURES MANUAL**

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## I. INTRODUCTION

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The U.S. Environmental Protection Agency (EPA) awards funding to local jurisdictions to manage the award and disbursement of Brownfields Revolving Loan Funds (BRLF) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In 2012, the EPA awarded Decide DeKalb Development Authority (Decide DeKalb) a \$900,000 BRLF clean up grant, and a supplemental \$2,500,000 grant in 2022 (Cooperative Agreement # 02D38522). BRLFs are awarded as low-interest loans to private property owners, and subgrants to non-profits, for up to 80% of eligible remediation costs to prepare for the redevelopment of a brownfield property located in DeKalb County.

The CERCLA defines a brownfield as real property whose expansion, redevelopment, or reuse may be complicated by the presence or potential presence of:

- A hazardous substance, pollutant, or contaminant.
- Controlled substances: a drug or other substance, or immediate precursor, included in Schedule I, II, III, IV, or V of Part B of Title 21 USC § 812, including but not limited to red phosphorous, kerosene, and acids;
- Petroleum or petroleum-related products; and
- Mine-scarred lands.

Brownfields typically include former industrial sites, gas stations, landfills, and dry-cleaning establishments.

This Decide DeKalb BRLF Program Guidelines and Procedures Manual provides information about the requirements and procedures of the EPA BRLF program, environmental cleanup requirements, as well as information about site and borrower eligibility, eligible costs, terms and conditions and loan/subgrant requirements. The BRLF process is also shown in the BRLF flow chart and timeline located in the appendix.

In addition, this Manual defines the general principles upon which loan terms and awards will be made and establishes parameters for actions related to the Decide DeKalb BRLF Program.

### Goals of the Brownfields Revolving Loan Fund Program

Many parcels in DeKalb County have actual or perceived environmental contamination and are often abandoned or underutilized. The presence of

# I. Introduction

contamination along with the risks and costs associated with addressing contamination can be a significant barrier to redevelopment. Decide DeKalb's BRLF Program seeks to:

- Protect human health and the environment;
- Improve the quality of life for residents;
- Incentivize economic revitalization projects; and
- Encourage sustainable redevelopment of brownfield sites;
- Maximize the effectiveness of the Program through collaboration and leveraging BRLF funds to attract other sources of capital; and
- Increase the County's tax base by returning contaminated properties to safe and productive use; and
- Engaging with and educating the community.

## II. PROGRAM ELIGIBILITY

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### A. Loan Eligibility

To be eligible for funding for cleanup activities at a Brownfield site, applicants must meet the following requirements:

- Borrowers and subgrantees must be an “**eligible entity**” as defined in CERCLA § 104(k)(1) or a nonprofit as defined in section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107, 31 U.S.C. 6101.
- The **applicant is not an individual or entity that is potentially liable for the contamination** under CERCLA § 107.
- Additionally, the applicant **may not be affiliated with any other person or entity who is potentially liable** for cleanup costs at the subject property through:
  1. Any direct or indirect familial relationship;
  2. Any contractual, corporate, or financial relationships; or
  3. Through the result of a reorganized business entity that was potentially liable and does not have a contractual relationship, agency or employment with the entity that caused the contamination as described in CERCLA §§ 101(40)(H) and 107(q)(1)(A)(ii).
- For subgrants, applicants must be the **sole owner of the subject property** by the date specified in the grant guidelines, for the year in which the applicant receives the grant.
- The Borrower must:
  1. Be in good financial standing;
  2. Current on all property taxes and other obligations to DeKalb County;
  3. Demonstrate the ability to repay the loan and complete the project successfully; and
  4. Demonstrate they have secured the financing necessary to complete the project.
- Submit information regarding their overall environmental compliance history, including any penalties resulting from environmental non-compliance at the subject property.

## II. Program Eligibility

- Demonstrate that they meet the requirements for one of the following **Landowner Liability Protections**:
  1. Bona Fide Prospective Purchaser (BFPP);
  2. Contiguous Property Owner (CPO); or
  3. Innocent Landowner (ILO).

Applicants asserting one of the above liability protections must demonstrate that they complied or are complying with all of the requirements listed below.

1. Applicant acquired title to the property after January 11, 2002. (BFPP)
  - a. If the property was acquired prior to January 11, 2002, the Applicant must demonstrate it performed environmental due diligence that was customary at the time and did not cause or contribute to the release or threatened release of a hazardous substance.
2. Applicant conducted All Appropriate Inquiries (AAI) prior to acquiring the property.
  - a. AAI requirements are typically met by conducting a Phase I Environmental Site Assessment (ESA) using the ASTM E1527-21 (or ASTM E2247-16) standard practice, and must be conducted or updated within one (1) year prior to the date the property is acquired.
  - b. In addition, certain aspects of the AAI or Phase I ESA report must be updated, prior to property acquisition, if the activities were conducted more than six (6) months prior to the date of acquisition.
  - c. The owner must not be liable in any way for contamination at the site or affiliated with any other person potentially liable for the contamination. (Affiliations include familial, contractual, financial, or corporate relationships that are the result of a reorganization of a business entity with potential liability.)
3. Applicant completed a Phase II ESA for the property in compliance with Georgia Environmental Protection Division (EPD) and ASTM guidelines.
4. All disposal of hazardous substances at the site occurred before the applicant acquired the site. (BFPP) (does not specifically apply for the CPO protection).
5. The Applicant must exercise appropriate care by taking reasonable steps to address releases, including stopping continuing releases and preventing threatened future releases and exposures to hazardous

## II. Program Eligibility

substances on the site.

6. The Applicant must comply with any land use restrictions and not impede the effectiveness or integrity of any institutional controls associated with response actions at the site.
7. The Applicant must provide full cooperation, assistance, and access to authorized persons.
8. The Applicant must comply with any CERCLA information requests and administrative subpoenas, and provide all legally required notices with respect to the discovery or release of any hazardous substances found at the site. (does not specifically apply for the ILO protection).
9. The Applicant must not impede performance of a response action or natural resource restoration.
10. Borrowers must comply with the internal control requirements specified at 2 CFR § 200.303 and are subject to the 2 CFR Part 200, Subpart F, Audit Requirements.
11. Applicants must have a unique must have a **unique entity identifier (UEI)**. UEI is generated when an entity registers in the System for Award Management at SAM.gov.
12. Decide DeKalb will report all awards in the **Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS)**.
13. BRLF recipients must comply with 2 CFR Part 170, Reporting Subaward and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA).

### **B. Subgrant Eligibility**

Decide DeKalb will award subgrants in an amount up to 80% of the total eligible remediation costs per site/project non-competitively to an eligible entity or nonprofit organization (as defined in § 4(6) of the Federal Financial Assistance Management Improvement Act of 1999) to clean up sites owned by the applicant at the time of the award of the subgrant. Subgrant awards are contingent upon funding availability. If the maximum subgrant funding availability is less than 80% of the total eligible remediation costs, Decide DeKalb may award an additional BRLF loan for the additional remediation costs up to 80%.

The subgrantee must hold fee simple title to the property at closing of the grant, and retain fee simple title of the property throughout remediation and cleanup.

Funding for BRLF grants is authorized under section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of

## II. Program Eligibility

1980, as amended, (CERCLA), [42 U.S.C. 9604\(k\)](#). Subgrant eligible entities include:

- a. a general purpose unit of local government;
- b. a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;
- c. a government entity created by a State legislature;
- d. a regional council or group of general purpose units of local government;
- e. a redevelopment agency that is chartered or otherwise sanctioned by a State;
- f. a State;
- g. an Indian Tribe other than in Alaska;
- h. an Alaska Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following) and the Metlakatla Indian community;
- i. an organization described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of that title;
- j. a limited liability corporation in which all managing members are organizations described in subparagraph (i) or limited liability corporations whose sole members are organizations described in subparagraph (i);
- k. a limited partnership in which all general partners are organizations described in subparagraph (i) or limited liability corporations whose sole members are organizations described in subparagraph (i); or
- l. a qualified community development entity (as defined in section 45D(c)(1) of title 26).

**Nonprofit organizations described in Internal Revenue Service § 501(c)(4) that engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995 are not eligible for subgrants.**

### **C. Eligible Properties**

All properties that will be remediated with BRLF funds must be located within DeKalb County, and meet the definition of a “brownfield site” provided in CERCLA § 101(39) (A).

## II. Program Eligibility

***A property is not required to already be registered as a Brownfield.***

To be eligible for a BRLF award to address hazardous substances at a brownfield property, eligible entities must demonstrate that they:

1. Are exempt from CERCLA liability; or
2. Qualify for funding because the property is publicly owned and was acquired prior to January 11, 2002; or
3. Meet the requirements for asserting an affirmative defense to CERCLA liability through one of the landowner liability protections (e.g., the bona fide prospective purchaser liability protection per CERCLA § 101(40)).

To determine whether a cleanup subgrant is appropriate, Decide DeKalb must consider whether the award will achieve the following as required by CERCLA § 104(k)(3)(C):

- a. Whether the subgrant will facilitate the creation, preservation, or addition of a park, greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;
- b. The extent to which the funding will facilitate the development of equitable housing options;
- c. The extent to which job opportunities will be generated as a result of the proposed project;
- d. The extent to which 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;
- e. The extent to which the subgrant will facilitate the use or reuse of existing infrastructure; and
- f. The benefit of promoting the long-term availability of funds in the Decide DeKalb BRLF program.

Additionally, Decide DeKalb will consider if the proposed redevelopment is:

1. Located in a Qualified Census Tract, Difficult to Develop Area, Community Improvement District, Federal or State Opportunity Zone, and/or Decide DeKalb Tax Allocation District;
2. Consistent with the DeKalb County 2050 Unified Plan, Small Area Plans, Community Revitalization Plans, Community Improvement District, or Livable Centers Initiatives (LCI) created or updated within

## II. Program Eligibility

the last five (5) years.

Applicants must notify Decide DeKalb of the presence of any buildings built prior to 1946 that may be impacted, or are adjacent to areas impacted by cleanup activities. Decide DeKalb Staff will consult with the EPA and State Historic Preservation Office for review for potential applicability of the National Historic Preservation Act (NHPA). If NHPA is applicable, the cleanup activities must comply with any requirements of the NHPA.

### **D. Petroleum Site Eligibility**

The EPA Project Officer will approve the eligibility of petroleum contaminated sites prior to incurring costs. Applicants must provide the following documentation:

- a. State determination that there is “no viable responsible party” for the site;
- b. State determination that the person assessing, investigating, or cleaning up the site is a person who is not potentially liable for cleaning up the site; and
- c. The property is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.

Documentation submitted for a property must also include:

- d. The identity of the State program official contacted;
- e. The State official’s telephone number;
- f. The date of the contact; and
- g. A summary of the discussion relating to the State’s determination that there is no viable responsible party and that the person assessing, investigating, or cleaning up the site is not potentially liable for cleaning up the site.

### **E. Participation in the Georgia EPD Brownfields Program**

Generally, properties receiving a BRLF award are also required to participate in the Georgia EPD Brownfields Program (<http://epd.georgia.gov/brownfield>). This requirement, if applicable, will be included in the loan or subgrant agreement.

Prior to Decide DeKalb staff’s recommendation of the BRLF award to the Board of Director’s Subcommittee, the applicant must be enrolled in the Georgia EPD Brownfields Program and enter into a Brownfields Site Rehabilitation Agreement with the Georgia EPD, or a delegated agency. In

## II. Program Eligibility

addition, the Georgia EPD must approve a Corrective Action Plan (CAP) before the start of remediation.

Exceptions to this requirement will be considered on a case-by-case basis. As an example, if asbestos and/or lead paint abatement are the only actions to be funded by the BRLF award, participation in the Georgia EPD Brownfields program may not be required.

### F. Property-Specific Eligibility Determinations

Certain types of sites require a property-specific determination to be eligible for Brownfields Grant funding. The following special classes of property require a "Property-Specific Determination" from EPA to be eligible for Brownfields Grant funding:

1. Properties subject to planned or ongoing removal actions under CERCLA;
2. Properties with facilities that have been issued or entered into a unilateral administrative order, a court order, an administrative order on consent, or judicial consent decree or to which a permit has been issued by the United States or an authorized state under the Resource Conservation and Recovery Act (RCRA), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SDWA);
3. Properties with facilities subject to RCRA corrective action (§ 3004(u) or § 3008(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;
4. Properties that are land disposal units that have submitted a RCRA closure notification or that are subject to closure requirements specified in a closure plan or permit;
5. Properties where there has been a release of polychlorinated biphenyls (PCBs) and all, or part, of the property is subject to TSCA remediation; and
6. Properties that include facilities receiving monies for cleanup from the Leaking Underground Storage Tank (LUST) Trust Fund (see the [Information on Sites Eligible for Brownfields Funding under CERCLA § 104\(k\)](#) for a definition of LUST Trust Fund sites).

EPA's approval of Property-Specific Determinations will be based on whether an award will protect human health and the environment, and either promote economic development or enable the property to be used for parks, greenways, and similar recreational or nonprofit purposes.

## II. Program Eligibility

### G. Ineligible Properties

The following types of properties are ineligible for BRLF funding:

- a. A property excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination;
- b. Properties listed, or proposed for listing, on the National Priorities List (NPL);
- c. Properties that are subject to the jurisdiction, custody, or control of the United States government, except the following:
  - o Privately-owned, Formerly Used Defense Sites (FUDS);
  - o Privately-owned, Formerly Utilized Sites Remedial Action Program (FUSRAP) properties;
  - o Other former federal properties that have been disposed of by the U.S. government; and
  - o Land held in trust by the United States government for an Indian tribe.

### H. Eligible Activities & Costs

BRLF funding must only be used for the eligible activities and costs listed below:

- a. Determining whether BRLF cleanup activities at a particular property are authorized by CERCLA;
- b. Expenses for site cleanup activities under CERCLA § 104(k)(3)(A)(ii);
- c. Oversight of cleanup activities and ensuring that a BRLF cleanup is adequate and complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k);
- d. Limited site characterization to confirm the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed;
- e. Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA);
- f. Costs associated with meeting public participation, community notification, worker health and safety, and programmatic management requirements;
- g. Establishing an Administrative Record for each site;
- h. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.12;

## II. Program Eligibility

- i. Voluntary cleanup program (VCP) or state cleanup program fees associated with the site remediation;
- j. Costs for monitoring natural resources (e.g., soil, groundwater) for contamination;
- k. Ensuring that the site is secure if a borrower or subgrantee is unable or unwilling to complete a brownfield site cleanup;
- l. Using a portion of a loan or subgrant to purchase environmental insurance for the site, if the purchase of such insurance is necessary to carry out cleanup activities;
- m. Removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant, contaminant, petroleum product, or controlled substance into the environment;
- n. Installation of drainage controls, fences, warning signs, or other security or site control precautions;
- o. Stabilization of berms, dikes, or impoundments; or drainage or closing of lagoons;
- p. Using chemicals and other materials to stop the spread of the release or mitigate its effects;
- q. Excavation, consolidation, capping or removal of contaminated soils;
- r. Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum;
- s. Removal of source materials, including free product recovery; and
- t. Containment, treatment, or disposal of hazardous materials and petroleum products.

### I. Ineligible Activities & Costs

BRLF funds cannot be used for the following activities and ineligible costs:

1. Pre-cleanup Phase I and Phase II ESA activities with the exception of site monitoring activities that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup;
2. 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;
3. Construction, demolition, and site development activities that are not

## II. Program Eligibility

cleanup actions (e.g., marketing of property, activities or products created specifically to attract buyers or investors), construction of a new facility, or addressing public or private drinking water supplies that have deteriorated through ordinary use);

4. Job training activities unrelated to performing a specific cleanup at a site covered by a loan or subgrant;
5. Payment for a penalty or fine;
6. Payment of a federal cost share requirement (e.g., a cost share required by another federal grant) unless there is specific statutory authority;
7. Payment for a response cost at a brownfield site for which the recipient of the subgrant or loan is potentially liable under CERCLA § 107;
8. Payment for a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup; and
9. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.

# III. Underwriting Requirements

## III. UNDERWRITING REQUIREMENTS & FINANCIAL FEASIBILITY

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The EPA provides significant flexibility to Decide DeKalb to negotiate terms with BRLF potential borrowers and subgrantees. This flexibility allows Decide DeKalb to create enabling conditions for redevelopment of brownfields sites. Decide DeKalb can structure BRLF loans to eligible borrowers for allowable activities in a manner that is most conducive to local market conditions and community needs.

Flexibility is a cornerstone of the BRLF and EPA promotes the use of these financial incentives for program implementation:

- **Subgrants:** A portion of BRLF funds can be used for subgrants to eligible entities, and can be used in combination with loans.
- **Low or 0% interest loans:** Below-market interest rates, even as low as 0%, are acceptable.
- **Intra-governmental loans:** Decide DeKalb may issue a direct loan to a branch of DeKalb County's government.
- **Flexible collateral:** Flexibility with the type of collateral allowed, including other properties and certificates of deposit owned by the borrower, or the ability to accept a lower debt service coverage ratio can ensure financial feasibility of the project.

In collaboration with its EPA Project Officer and its QEP, Decide DeKalb staff will review loan and subgrant applications, make eligibility determinations, and negotiate loan terms. Recommendations will be reviewed by the Decide DeKalb Board of Directors' Subcommittee, with the Board of Directors granting full approval.

### A. Financing Guidelines

Decide DeKalb has established economically sound structures, processing procedures, and day-to-day management to maintain the BRLF program and meet long term brownfield cleanup objectives. These include the establishment of:

- Underwriting principles, interest rates, repayment terms, fee structure, and collateral requirements sufficient to recover the principal amount of BRLF loans, at a minimum; and
- Review, approval and processing of loan and subgrant applications, documentation, administrative procedures, collections, and recovery

### III. Underwriting Requirements

actions.

Generally, a project's financial feasibility is demonstrated by its ability to maintain a combined minimum debt service coverage ratio (DSCR) of 1.20x beginning at project stabilization, and every year the project has any outstanding debt balances. If any senior lender has a DSCR requirement less than 1.20x, Decide DeKalb may amend the BRLF loan terms including, but not limited to, the interest rate, loan term, and/or repayment schedule. **Under no circumstances may a BRLF loan amount exceed 80% of the eligible remediation costs.**

The following are baseline underwriting requirements of the BRLF program:

- **Loan Amounts:** at least fifty thousand dollars (\$50,000), but not to exceed 80% of the total remediation costs. No maximum loan limit will be established to ensure flexibility.
- **Sub-grant Amounts:** not to exceed five hundred thousand dollars (\$500,000).
- **Lien Position:** In cases where limited financing from a private/traditional source of capital is available, loans can be used as subordinate financing. Subordinate lien positions may be acceptable so long as the senior lien holder(s) is a lending institution.

#### B. Equity

When applicants are business owners proposing to redevelop a brownfield site into a future residential, commercial, or mixed-use program, and can contribute equity/cash without impairing cash flow, equity may be required. Generally, the equity required will range from zero (0%) to twenty percent (20%) of the total remediation cost. Decide DeKalb will consider the following in determining the equity requirement for each project:

- The overall strength of the business;
- Collateral coverage; and
- The cash available to invest into the project.

Exceptions may be made on a case-by-case basis depending upon the financial feasibility of each project. It is Decide DeKalb's general philosophy that existing equity or previous cash injections into the business indicate a reasonable level of commitment to the business; therefore, consideration will be given to equity invested in the project prior to submission of the BRLF application. Additionally, if the projected cash flows of the operating asset post remediation and redevelopment can support repayment of the BRLF loan, then equity may not be required. However, the applicant must identify

## III. Underwriting Requirements

another source of funding to cover at least 20% of the eligible remediation costs.

### C. Interest Rates

Interest rates will be established to meet the needs of borrowers while yielding income to support the administrative expenses of Decide DeKalb's BRLF program.

As a general rule, the interest rate will be negotiated in accordance with the following:

- **Market rate operating assets:** redevelopments including 100% market rate non-residential and/or residential programs shall have an interest rate up to 200 basis points above the U.S. Effective Federal Funds Rate (EFFR), but not less than two percent (2%), or more than five percent (5%).
- **Affordable and mixed-income residential projects:** redevelopments including residential units reserved for households earning below an/or up to 80% area median income (AMI) and/or workforce units for households earning up to 120% AMI, shall have an interest rate up to the EFFR, but not less than zero percent (0%) or more than four percent (4%).
- **Public Amenity projects:** projects proposing to redevelop a brownfield site solely into a public amenity or benefit including, but not limited to, parks, greenspace, public infrastructure improvements, community centers, museums, or to remove neighborhood blight, shall have an interest rate of zero percent (0%).

The EFFR shall be the rate quoted on [The Board of Governors of the Federal Reserve System website](#) as of the date the full application is submitted. The interest rate will be fixed for the term of the loan.

Deviations from this policy may be made when warranted to cover administrative costs. Decide DeKalb staff will negotiate interest rates, based on the financial feasibility of the project to support the overall debt service and/or risk of the project. Repaid interest will be retained by Decide DeKalb to pay administrative expenses of the BRLF program and/or to reinvest into remediation of other brownfield sites.

### D. Loan Terms & Repayment

A relatively quick return of principal and interest to the BRLF program allows new loans to be made for future projects. To maximize the longevity of the BRLF program and availability of funds, Decide DeKalb's preferred BRLF loan

### III. Underwriting Requirements

terms are 60 months or less. Loan terms will be customized based upon the borrower's needs, repayment ability from available cash flows, and how much the borrower is financing.

For projects proposing to redevelop a brownfield site into an operating asset(s), interest-only or deferred payments may be made available during remediation and redevelopment of the property. Upon issuance of the first certificate of occupancy, all loan payments will be fully amortized.

For projects proposing to redevelop a brownfield site solely for public amenities or benefit, loan payments will be fully amortized upon closing of the loan.

All conditions, including the loan term and repayment schedule, will be evidenced by a promissory note, security documents, and other closing documents, as necessary, executed at closing.

#### **E. Loan Collateral**

Decide DeKalb 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 twenty percent (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 Board of Directors.

The value of pledged collateral (i.e.: Real Estate, Securities, Equipment, etc.) may be verified through a market analysis, appraisal or other means that are deemed appropriate for the particular project.

Liens will be recorded on all collateral, and 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, Decide DeKalb will secure its loans to the maximum extent to ensure an adequate source of repayment.

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

### IV. APPLICATION AND APPROVAL PROCESS

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Environmental cleanups funded with a Brownfields Revolving Loan Fund award must follow the steps outlined below. Additional details and information pertaining to certain requirements are provided in Section

#### 1. Decide DeKalb BRLF Preliminary Questionnaire

The first step in the BRLF award process will be the applicant's submission of a preliminary questionnaire which can be downloaded on Decide DeKalb's website [here](#). The questionnaire includes preliminary information to assist Decide DeKalb staff and the QEP in determining eligibility of the applicant, the site, and the proposed remediation scope of work. Upon receipt of the preliminary questionnaire, staff will screen the applicant information, proposed remediation and redevelopment plan post-cleanup for conformance with the objectives and guidelines of the program.

- a. Prior to application submission, Applicants must have an ASTM E1903-19 compliant Phase II ESA report(s) or equivalent site investigation report(s) completed that indicates a basic understanding of what contaminants need to be cleaned up on the subject property, even if further Phase II assessment work is required prior to application submission.
- b. A previous Phase I and Phase II ESA report ordered and completed for the subject property by another individual or entity may suffice. However, depending on when the previous report was completed, an updated Phase I and/or Phase II may be required.
- c. Applicant must obtain a proposed scope of work and detailed line item budget and cost estimate by a Certified remediation contractor, if not included in the Phase II ESA. The preliminary questionnaire may be submitted without the cost estimate, however, it must be completed no later than submission of the Full BRLF Application.

#### 2. Eligibility Determination

- a. Decide DeKalb staff and its Qualified Environmental Professional (QEP) will determine if the Applicant and the proposed environmental cleanup activities meet preliminary eligibility requirements under the BRLF program, and Georgia EPD Brownfields program (if applicable).
- b. If preliminary requirements are met, the QEP will obtain an eligibility determination from the EPA and, in some cases, the Georgia EPD.

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- c. If a Georgia EPD eligibility determination is required, Decide DeKalb staff and the QEP will submit a request to Georgia EPD. Upon receipt, the QEP will submit the U.S. EPA Region 4 Brownfields Site Eligibility Determination Checklist (see Appendix) to Decide DeKalb's EPA Project Officer.
- d. The EPA Project Officer for Decide DeKalb's BRLF Program is substantially involved in the implementation of the program. The EPA Project Officer must evaluate the Brownfield site for its overall eligibility to receive EPA Brownfields funds.
- e. Once the EPA Project Officer has determined that the site is eligible for EPA BRLF funds, an eligibility determination letter will be issued to Decide DeKalb Staff and the QEP whether the application can be considered for a loan or a subgrant.
- f. Decide DeKalb staff notifies the Applicant of the EPA eligibility determination. Based on the outcome, the applicant will either be referred to other sources of financing or invited to prepare a Decide DeKalb Full BRLF Application complete application.

### 3. Decide DeKalb Full BRLF Application Submission

The Applicant and their certified remediation consultant or contractor should collaborate to complete the Decide DeKalb Full BRLF Application and all appropriate supporting documentation, including the following:

- a. Obtaining an updated Phase II ESA and Remediation proposal, scope of work and cost estimate from a Certified Remediation Contractor (if not yet completed)
- b. Applicant prepares financial supporting documentation and Full BRLF application.
- c. The Applicant must be in good financial standing, current on all property taxes and other obligations to DeKalb County.
- d. Applicant must demonstrate the ability to repay the loan and complete the project successfully.
- e. Applicant must also demonstrate that it has secured financing necessary to complete the project.
- f. Applicant submits Full BRLF application to Decide DeKalb Staff.

### 4. Loan Underwriting & Review of Development Plan

- a. Upon receipt of the Full BRLF Application, Decide DeKalb staff will review the Applicant's financial condition, business and

## IV. Application Process

- development plan.
- b. The Underwriting must demonstrate the Applicant and the proposed development plan are financially feasible and meet all BRLF Loan requirements and thresholds.
  - c. The proposed remediation plan and budget must be reasonable and cleanup is achievable within the budget provided.
  - d. Funding sources and budget must demonstrate that cleanup will be fully funded by the BRLF funding in combination with all other sources of funding.
  - e. Application must demonstrate that at least 20% of the total costs are covered from sources other than the BRLF loan fund.
  - f. The proposed scope of work and budget are in compliance with Federal and State regulations, requirements and conditions.
  - g. The proposed redevelopment plan for the property must meet the goals of the BRLF program.
  - h. If Decide DeKalb's application review and underwriting demonstrate all requirements are met, Decide DeKalb staff will present the Applicant with proposed loan terms. Staff will consider both the financial feasibility of the future operating asset on the property and the Applicant's individual financial capacity to repay the loan.
  - i. Upon agreement with the applicant, Decide DeKalb staff will proceed with obtaining authorization from the Board of Directors.

**Please see Section V Loan Requirements & Financial Feasibility for underwriting guidelines.**

### **5. Board of Directors Subcommittee Authorization**

- a. Decide DeKalb Staff will draft a BRLF loan or subgrant commitment letter, terms and conditions, and request for Board authorization submits to Decide DeKalb legal Counsel.
- b. Decide DeKalb Counsel prepares the Board of Directors' Resolution.
- c. Decide DeKalb staff submits the draft Board resolution and BRLF loan or subgrant commitment letter, terms and conditions to the Applicant and their legal counsel review.
- d. Upon agreement, the Board Resolution and BRLF commitment letter will be added to the Subcommittee calendar for the next scheduled meeting, typically the first Friday of each month.
- e. The Applicant and their environmental consultant will be invited to

## IV. Application Process

- attend the Subcommittee meeting.
- f. The Resolution is presented to the Subcommittee for authorization.
- g. Upon approval, the Request for Authorization will be added to the Board of Directors' next scheduled meeting.

### **6. Board of Directors Authorization & Commitment Letter**

- a. The Board of Directors typically meet on the second Thursday of the month, either in person or virtually.
- b. The Applicant and their environmental consultant will be invited to attend the Board meeting.
- c. Upon Board approval, the BRLF Commitment Letter and Terms and Conditions will be executed by Decide DeKalb and provided to the Applicant.

Loan decisions will be made at Board of Directors meetings when a quorum is present. Members may review the loan commitment term sheet prior to Subcommittee and full Board meetings. At the Subcommittee meetings, staff will provide a more detailed overview of the project and an in-depth financial and credit analysis of the project.

The Board may establish parameters in which certain post-award decisions can be made by staff without Board consideration. Staff may approve post-award changes in situations where an existing borrower requests minor changes in loan terms. Signatures are required for approval. Deferrals of principal of up to six (6) months, release of a guarantor who is no longer a majority owner, and release of secondary collateral after half of the loan term is paid are examples of situations where staff approval is sufficient.

Board members will be notified of staff actions at the next meeting. For more complex requests, such as loan assumptions, direct Board of Directors action is required. In these cases, a memorandum outlining the request, along with a recommendation from staff, shall be provided to Board members. Voting should occur at the next scheduled meeting.

### **7. Preparation and Submission of the EPA Full BRLF Application**

Decide DeKalb Staff, the QEP, the Applicant, and their certified remediation contractor will collaborate to complete the Decide DeKalb Full BRLF Application and all appropriate supporting documentation, including the following:

- a. Develop a formal Community Involvement Plan (CIP) and approach for community engagement.

## IV. Application Process

- b. Applicant's environmental consultant of the QEP prepare an analysis of Brownfields Cleanup Alternatives (ABCA).
- c. Develop a draft of the Quality Assurance Project Plan (QAPP);
- d. Decide DeKalb Counsel prepares loan and closing documents in accordance with the Board-approved BRLF Loan Commitment Letter, for review by Applicant and their counsel.

### **8. EPA Project Officer Review & Implementation of CIP**

The QEP will submit the BRLF package to the EPA Project Officer including the following supporting documentation:

- a. Draft Quality Assurance Project Plan;
- b. Draft Community Involvement Plan;
- c. Analysis of Brownfields Cleanup Alternatives (ABCA);
- d. BRLF Loan Commitment Letter, Terms and Conditions, and Draft BRLF loan and closing documents;

Upon receipt of preliminary of all supporting documents, Applicant will proceed with implementation of the CIP.

Decide DeKalb Staff, the QEP, and Applicant will coordinate to schedule a community meeting and provide reasonable public notice.

Once the Community meeting is held, there must be a 30-day Public Review/Comment period for written and oral comments related to the proposed site remediation.

### **9. Decision Document Issued & Loan Closing**

Upon approval of the BRLF package, the Decide DeKalb Project Manager or the QEP will issue the Decision Document that selects and details the final clean up action for the site.

The decision document shall include a response to all relevant comments received during the public comment period and document any change(s) to the final cleanup plan based on comments received.

If the CIP and EPA review and approval processes result in substantial changes to the Board of Directors' previous authorization, Decide DeKalb staff will return to the Subcommittee and Board of Directors' for authorization of the amended BRLF terms.

If there are no substantial changes, Decide DeKalb and the Applicant will proceed with the BRLF Loan Closing.

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### 10. Loan Closing & Documents

All loan documents must be approved and executed by Decide DeKalb's legal counsel. A set of standard BRLF loan documents have been developed by Decide DeKalb staff, and approved by Decide DeKalb's legal counsel and the EPA Project Officer. After a commitment letter has been approved by the Board of Directors, issued and the conditions and terms have been accepted (in writing) by the borrower, a copy of the standard loan documents will be provided to the borrower and their attorney.

A conference with Decide DeKalb's attorney may take place to review the documents needed for closing. Decide DeKalb's attorney will participate in each closing to ensure consistency and accuracy in loan closing files.

Keeping closing costs at a minimum is critical to make the program affordable to those needing it most. At a minimum, a loan agreement, promissory note, and collateral and security instruments and guaranty will be required.

The following BRLF Loan documents will generally be required to facilitate the loan:

1. Loan Agreement
2. Promissory Note
3. Certificate and Assurances
4. Guaranty (if borrower is not an individual)
5. BRLF Draw Request Form Template
6. Evidence of Hazard Insurance (with Decide DeKalb as an additional Loss Payee)
7. Mortgage with title option verifying lien position\*
8. UCC, with proper UCC search confirming lien position\*
9. Resolution to Borrow\*
10. Life Insurance Assignment\*
11. Flood Insurance\*

\*If required, based on collateral structure of the loan, and property location and/or condition.

### 11. Site Remediation & Monitoring

Applicant and remediation contractor commences with site clean-up and remediation of the site. Remediation activities must:

- a. Meet all applicable Federal and State Laws and cross cutting

## IV. Application Process

- regulations;
- b. Meet Davis-Bacon requirements;
- c. Meet requirements of Build America, Buy America provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§70911 70917); and
- d. Perform the Environmental Cleanup in a manner protective of human health and the environment.

Decide DeKalb Staff and the QEP will monitor and document the Environmental Cleanup.

Requests for BRLF funding disbursements may be submitted as needed, but not more than once a month.

### **12. Loan Disbursement Requirements**

Funds will be disbursed by means of "actual expense". An "actual expense" disbursement approach requires the recipient to submit a BRLF Draw Request Form and supporting documentation of the borrower's expenditures (e.g., invoices, copies of contractor's AIA G702 "Application and Certificate for Payment" and AIA G-703 "Continuation Sheet") to Decide DeKalb to request payment. If the loan recipient has paid for the associated scope of work, and submits proof of payment with the Draw Request Form, BRLF funds will be issued to the loan recipient as a reimbursement. If costs have not been paid to consultants and/or contractors for work completed, Decide DeKalb will issue payment direct to the consultants and/or contractors.

### **13. Close Out Reporting**

Upon completion of remediation, the QEP will prepare a Closeout Report and a Compliance Status Report (CSR) for submission to EPA. The QEP will obtain and submit a No Further Action Letter from Georgia EPD, if applicable.

See **Section VI.G.** for additional reporting requirements.

### **14. Loan Repayment**

Applicant begins repayment of the BRLF loan in accordance with the loan terms. See **Section IV.D.** for Loan Terms and Repayment.

## V. Supporting Documents

### V. APPLICATION SUPPORTING DOCUMENTS

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#### A. Required Documents

The following documents may be required for loan and subgrant applications before, during and after the remediation, as applicable:

1. Description of the proposed redevelopment plan, including ownership structure, general and limited partners, business/property manager, management plan, etc.
2. Resume of owner(s) and key management personnel.
3. Site Photos
4. Evidence of property control, in the form of an executed purchase and sale agreement, or title/deed. Documentation should include a legal property description.
5. Total development costs and proposed and/or committed sources of financing, for both remediation and redevelopment, where applicable. Sources of financing should include the requested BRLF award amount and loan terms.
6. All indirect costs for the applicant, even if the applicant has an approved indirect cost rate from its cognizant federal audit agency.
7. Environmental Remediation Detailed Line-Item Budget
8. Environmental Remediation Schedule
9. Monthly Draw Schedule including detailed line items for all sources of funds and costs for the duration of the environmental remediation and construction/redevelopment periods. Draw Schedules must be submitted in both PDF format, and in Microsoft Excel with cells unlocked to the extent cells can be copy and pasted (formula visibility is not required).
10. Annual Financial Proforma for the operating asset(s) post-redevelopment starting from stabilization through the end of the longest debt term. Proformas must detail each debt source's principal and interest payment separately.
11. Terms sheets issued from all other debt, equity, and/or grant sources associated with the project. Term sheets should include financing terms, including but not limited to, amounts of funding, interest rates, loan terms, and repayment terms, where applicable.
12. History and description of the applicant's current business: describing

## V. Supporting Documents

the formation of the business, the owner(s), the products and services provided.

13. Occupation / Business License
14. Articles of Incorporation
15. Business financial statements for the past three (3) years, including Balance Sheets, Income Statements, and Notes to Financial Statement, and/ or Tax Returns. For local governments, provide annual budget with sufficient detail to demonstrate that the BRLF loan can be repaid.
16. Current Year to Date Business Financial Statements: Balance Sheet, Income Statement, etc.
17. Personal Financial Statement(s) on Owner(s) and Income Tax Returns for three (3) years. If an applicant has already applied for financing with another lender and has completed a Personal Financial Statement for that lender, a copy of that Personal Financial Statement will be accepted, if not more than 90 days old.
18. Schedule of Existing Business Debts.
19. Schedule of Existing Personal Debts.
20. Personal Credit Bureau Report for all Principals.
21. List of Collateral offered to secure proposed loan with outstanding loan balances (prior mortgages, etc.).
22. Contract with a Certified/qualified Environmental consultant/contractor (contracts need to meet Federal Procurement requirements 40 CFR Part 30).
23. Davis Bacon Wage Rates Certification Form
24. Environmental Remediation Contractor Insurance
25. Assessment Report
26. Brownfields Agreement with State of Georgia
27. Final Work Plan
28. ABCA Draft
29. Community Engagement Plan and 30-Day Public Review
30. QAPP
31. Endangered Species Act Consultation
32. National Historic Preservation Act Consultation with the State Historic Preservation Officer (SHPO)

## V. Supporting Documents

All applicants shall submit applications, remediation plan and supporting documentation to Decide DeKalb. Upon completion of the full BRLF loan application, staff will conduct an analysis to ascertain the project's potential for success, including a review of the remediation and redevelopment plan.

Additionally, Decide DeKalb will perform an in-depth credit analysis, to determine the repayment ability of the borrower and will consider business cash flow, personal debt to income ratios, personal and business credit history, management, type of business, industry performance and collateral.

If the analysis indicates the remediation and redevelopment plans are viable, and the borrower is creditworthy, staff will work with the applicant to structure the terms of the loan package. All loan decision authority rests with the Board of Directors.

### **B. Credit Reports**

Credit reports may be required. In situations where the applicant has experience with a bank, staff may contact that bank for a credit reference in lieu of conducting a credit report. In cases where credit reports and/ or bank references reveal an unfavorable finding, a signed statement of explanation by the applicant will be required and shall be submitted to the Committee for review.

### **C. Credit Criteria**

The key to the success of the program is flexibility and the ability to mold the program to meet the individual and unique needs of borrowers. Historical and projected cash flow, working capital, liquidity, and debt to equity will be considered. Staff will assess the overall stability of the property owner by comparing historical financials. Below are general guidelines that will be used in identifying creditworthiness and in screening applicants.

1. Personal credit report
2. Business credit references
3. Personal Debt/ Income ratio
4. Cost or appraised value of collateral
5. Applicants with bankruptcies, foreclosures, repossessions, judgments, or delinquent credit must provide signed information on the status and resolution of the situation.
6. Applicants that cannot demonstrate the likelihood of making proposed loan payments may be denied by staff with Committee consideration. Rejected applications will be reported to the Committee.
7. Staff will review personal obligations of the owners. If personal

## V. Supporting Documents

obligations could be a potential drain on the business cash flow, the loan may be declined.

8. For existing companies, cash flow should be sufficient to support current and proposed debt service. In cases where a shortage exists, borrower(s) must demonstrate specific ways/ plans in which changes will be brought to ensure cash flow is positive.
9. For new companies, business plan projections should designate targeted customers. Applicants may be asked to provide letters of intent from potential customers to document the need for their product/ service or provide evidence of leveraged funding.
10. The Committee may limit the debt-to-income ratio (total personal debt divided by income) for business owners to 50%.
11. Borrowers with two or more bankruptcies, repossessions, or foreclosures within a 5- year period will generally not be considered for a loan.

Loan applications will be reviewed for standard underwriting criteria. Loan terms will be shared with the applicant and negotiated until an agreement is reached. Agreed-upon loan terms will be brought to the Board of Directors Subcommittee for discussion and recommendation, and the final decision is made by the Board of Directors.

### **D. Appraisals**

Decide DeKalb staff will determine appraisal requirements on a case-by-case basis. They may not always be required because of the appraisal cost relative to loan size. When required, appraisals will be conducted by appraisers satisfactory to Decide DeKalb and completed prior to disbursement of proceeds. When not required, staff will wherever possible document collateral's historical cost, anticipated cost, tax value or book value.

### VI. SITE REMEDIATION & CLEAN UP

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Environmental cleanups funded with the Brownfields Revolving Loan Fund generally follow the steps outlined below.

- Eligibility determination for the Site, Applicant, and Proposed Scope of Work and Costs;
- Full application submission with supporting documentation, including All Appropriate Inquiry Documentation;
- Drafting the Community Involvement Plan;
- Conducting an Analysis of Brownfields Cleanup Alternatives (ABCA);
- Developing and obtaining approval of a Quality Assurance Project Plan (QAPP);
- Establishing the Administrative Record;
- Implementing the Community Involvement Plan and having a community meeting;
- Meeting All Applicable Federal and State Laws/cross cutting regulations
- Performing the Environmental Cleanup (in a manner protective of human health and the environment);
- Documenting the Environmental Cleanup;
- Establishing Institutional Controls, if needed;
- Preparing a Closeout Report and a Compliance Status Report (CSR); and
- Submitting No Further Action Letter from GA EPD, if needed.

#### A. Community Involvement Plan (CIP)

Community involvement is an essential component of the BRLF Program. Through this process, the public is provided with reasonable notice of community meetings, has an opportunity to provide input on the proposed site cleanup and plans for redevelopment, can provide comment on the required documents drafted in preparation for the environmental cleanup, and has these comments considered in part of the final cleanup decision.

**All environmental cleanups require a site-specific CIP for involving and informing the community.** Community involvement activities must be initiated prior to the cleanup of a site and continue throughout each step of the

## VI. Site Remediation

environmental cleanup process.

Final cleanup decisions must not be made prior to carrying out the required community involvement activities. Community Involvement activities include, at a minimum, a community meeting and a 30-day public comment period. BRLF grant funds may be used to support community involvement activities as an eligible programmatic cost.

### **1. Documenting Community Involvement and Issuing the Decision Document**

After the public comment period is complete, the Decide DeKalb Project Manager or the QEP will issue a decision document that selects the final cleanup action for the site.

The decision document shall include a response to all relevant comments received during the public comment period and document any change(s) to the final cleanup plan based on comments received.

### **2. Project Sign and Acknowledgement of EPA and Decide DeKalb Investment**

The EPA Brownfields Revolving Loan Fund that has been awarded to Decide DeKalb is funded by the Bipartisan Infrastructure Law. BRLF Loan and subgrant recipients must place a sign at construction sites that display the Investing in America emblem and identify the project as a “project funded by President Biden’s Bipartisan Infrastructure Law”. The sign must be placed in an easily visible location directly linked to the work and maintained throughout the construction period.<sup>1</sup>

In addition, BRLF Loan and Subgrant recipients are required to include EPA and Decide DeKalb’s logo on all construction signs or banners at a visible location with direct linkage to site activities at the Property. The sign will state a portion of the Project is being financed by the BRLF Program, specifically referencing “Decide DeKalb’s Brownfields Revolving Loan Fund sponsored by the United States Environmental Protection Agency.”

Any documents, fact sheets, web materials, and/or project signs are developed as part of the loan or subgrant must include either a statement (e.g., this project has been funded, wholly or in part by EPA, Decide DeKalb’s Brownfields Program) and/or EPA and Decide DeKalb’s Brownfields Program logo acknowledging that the EPA and Decide DeKalb’s Brownfields Program are a source of funding for this project.

Finally, public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of the BRLF agreement, the BRLF fund recipient will provide the opportunity for

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<sup>1</sup> [Guidelines for Implementing the Bipartisan Infrastructure Law Signage Term and Condition for the State Revolving Fund Programs.pdf](#)

## VI. Site Remediation

attendance and participation by EPA and Decide DeKalb representatives with at least ten (10) working days' notice.

### **B. Analysis of Brownfields Cleanup Alternatives (ABCA)**

For each site receiving a loan or subgrant, Decide DeKalb's QEP or the Recipient's environmental professional will prepare an Analysis of Brownfield Cleanup Alternatives (ABCA).

The ABCA includes information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, ability to implement, and the cost of the response proposed.

The evaluation of alternatives must also consider the resilience of the remedial options to address potential adverse impacts caused by extreme weather events. In addition, the alternatives may consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed of, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process.

The cleanup method chosen must be based on this analysis and documented in a Decision Document upon completion of the public comment period. There must be consultation with EPD to determine if the selected cleanup requires formal modification based on public comments or new information.

### **C. Quality Assurance Project Plan (QAPP)**

If environmental data are to be collected as part of the brownfield cleanup (e.g., cleanup verification sampling, post cleanup confirmation sampling, air monitoring for asbestos abatement projects, etc.) quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss, must be implemented. Decide DeKalb's BRLF QEP or the Recipient's environmental professional will prepare and submit to the EPA Project Officer an approvable QAPP at least 30 days prior to the initiation of data collection or data compilation.

The QAPP is the document that provides comprehensive details about quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology. The QAPP must be approved by the EPA Project Officer prior to any remediation

## VI. Site Remediation

activity.

### **D. Establishing the Administrative Record**

For each BRLF award, Decide DeKalb will establish an Administrative Record. The Administrative Record includes all relevant site information and documents that form the basis for the selection of an award. This may include appropriate sections of legal documents necessary to ensure that cleanup requirements are met.

The Administrative Record must be retained and available for review at a location convenient to the public for three (3) years. It must include:

- a. the ABCA;
- b. Site investigation reports;
- c. The cleanup plan;
- d. Cleanup standards used;
- e. Responses to public comments; and
- f. Verification that shows that cleanups are complete.

### **E. Federal Cross Cutting Requirements**

All BRLF recipients must comply with federal cross-cutting requirements. These requirements include, but are not limited to:

- DBE requirements found at 40 CFR Part 33;
- OSHA Worker Health & Safety Standard 29 CFR § 1910.120;
- Uniform Relocation Act (40 USC § 61);
- National Historic Preservation Act (16 USC § 470);
- Endangered Species Act (P.L. 93-205);
- Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR § 60-4;
- Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333);
- the Anti-Kickback Act (40 USC § 276c); and
- Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

For additional information on cross-cutting requirements visit

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<https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>

Additionally, all projects with federal funding must comply with **Davis-Bacon Act prevailing wage** requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of CERCLA § 104(g).

Decide DeKalb's BRLF QEP will monitor the cleanup activities for compliance with Davis Bacon requirements.

### **F. Build America Buy America Project**

The recipient is subject to the Buy America Sourcing requirements under the Build America, Buy America provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§70911- 70917) for the types of infrastructure projects under the EPA program and activities specified in EPA's Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act.

None of the funds provided under Decide DeKalb's BRLF program may be used for a project of infrastructure unless all iron and steel, manufactured products, and construction materials that are consumed in, incorporated into, or affixed to an infrastructure project are produced in the United States. The Buy America preference requirement applies to an entire infrastructure project, even if it is funded by both Federal and non- Federal funds.

Any loan or subgrant recipient must implement these requirements in its procurements and contracts at any tier. For legal definitions and sourcing requirements, the recipient must consult EPA's Build America, Buy America website and the Office of Management and Budget's (OMB) Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure More information is available at: <https://www.epa.gov/cwsrf/build-america-buy-america-baba>.

### **G. Reporting Requirements**

BRLF recipients must submit quarterly progress reports within 30 days after each reporting period- October 1 - December 31 (1st quarter); January 1 - March 31 (2nd quarter); April 1 - June 30 (3rd quarter); and July 1 - September 30 (4th quarter).

Information to be included in the quarterly report consists of summaries of results of reviews of borrower financial and programmatic reports, summaries

## VI. Site Remediation

of findings from site visits and/or desk reviews to ensure effective borrower or subgrantee performance; environmental results the borrower or subgrantee achieved; summaries of audit findings.

Loan and subgrant recipients and Decide DeKalb's QEP shall ensure the adequacy of each BRLF cleanup as it is implemented by conducting or reviewing cleanup confirmation sampling. Confirmation sampling should show that the established cleanup levels and other applicable requirements will be or have been met, or additional cleanup activity is warranted.

After the BRLF funded environmental cleanup is completed, Decide DeKalb will work with the borrower and subgrantee to ensure the successful completion of a BRLF cleanup is properly documented. This must be done through a **Closeout or Final report**, or letter from a QEP that shows that the cleanup is complete (including No Further Action letters, institutional controls, etc.). This documentation must be included as part of the Administrative Record.

The report should also contain the following items:

- Documentation of cleanup actions taken, and any modifications made to the cleanup plan;
- Documentation that the actions that were taken met the cleanup levels established in the final cleanup plan, including the results of any cleanup confirmation sampling;
- Documentation of the resources committed; and,
- Documentation of any problems encountered and how they were resolved.

The cleanup completion documentation should be reviewed by Decide DeKalb's QEP for concurrence and submitted to EPA Project Officer for review and approval. If the site is enrolled in the GA EPD Brownfields Program, the borrower or subgrantee needs to provide a letter of concurrence that cleanup is complete and that any engineering or institutional controls are in place from GA EPD.

If the borrower or subgrantee is unable or unwilling to complete the BRLF cleanup, Decide DeKalb shall ensure that the site is secure and will notify the appropriate state agency and EPA to ensure an orderly transition should additional activities become necessary.

### H. Additional Loan and Subgrant Requirements

BRLF awards and legal documents must meet the cleanup and other program requirements of the BRLF loans and grants. The following terms and

## VI. Site Remediation

conditions will be included in BRLF loan agreements and subawards:

1. Borrowers or subgrantees shall use funds only for eligible activities and in compliance with the requirements of CERCLA § 104(k) and applicable federal and state laws and regulations.
2. Borrowers or subgrantees shall ensure that the cleanup protects human health and the environment.
3. Borrowers or subgrantees shall document how funds are used.
4. Borrowers or subgrantees shall maintain records for a minimum of three (3) years following completion of the cleanup financed all or in part with RLF funds unless one of the conditions described at 2 CFR § 200.334 is present. Borrowers or subgrantees shall obtain written approval from Decide DeKalb prior to disposing of records, so that the COA can maintain the records, if necessary, for complying with the Decide DeKalb's obligations under 2 CFR § 200.334. Borrowers and subgrantees shall access to records relating to loans and subgrants supported with RLF funds to authorized representatives of the federal government.
5. Borrowers or subgrantees shall certify that they are not currently, nor have they been, subject to any penalties resulting from environmental noncompliance at the site subject to the loan or subgrant.
6. Borrowers or subgrantees shall certify that they are not potentially liable under CERCLA § 107 for the site or that, if they are, they qualify for a limitation or defense to liability under CERCLA. If asserting a limitation or defense to liability, the borrower or subgrantee must state the basis for that assertion. When using cooperative agreement funds for petroleum-contaminated brownfield sites, borrowers or subgrantees shall certify that they are not a viable responsible party or potentially liable for the petroleum contamination at the site.
7. Borrowers or subgrantees shall conduct cleanup activities as required by Decide DeKalb.
8. Subgrantees shall comply with all applicable EPA assistance regulations (2 CFR Parts 200 and 1500). All procurements conducted with subgrant funds must comply with Procurement Standards of 2 CFR §§ 200.317 through 200.327, as applicable.
9. Borrowers must comply with the internal control requirements specified at 2 CFR § 200.303 and are subject to the 2 CFR Part 200, Subpart F, Audit Requirements. Decide DeKalb must oversee and manage loans as required by 2 CFR §§ 200.330 through 200.332.

## VI. Site Remediation

10. A term and condition or other legally binding provision shall be included in all loans and subgrants entered into with the funds under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that borrowers and subgrantees comply with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), federal applicable laws and requirements include 2 CFR Parts 200 and 1500.

### VII. LOAN SERVICING PROCEDURES

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Once the loan is closed, the Decide DeKalb Redevelopment Manager will create a SharePoint File Folder for the new account and will contain, at a minimum, the following sections, as applicable:

1. Preliminary Questionnaire forms: copies of all documents submitted by the applicant;
2. Full Application forms: Copies of all application documents as submitted by the applicant;
3. Analysis of Brownfield Cleanup Alternatives;
4. Community Involvement Plan;
5. Quality Assurance Project Plan;
6. Remediation Schedule;
7. Remediation and Development Budgets;
8. Copies of the Grant and/or Loan Agreement and Promissory Note;
9. Collateral Agreement;
10. Uniform Commercial Code (UCC) filings, if applicable;
11. Inter-creditor Agreement, if applicable;
12. Credit Reports;
13. Corporate charter, or Articles of Incorporation and By-Laws or Partnership Agreement;
14. Corporate Resolution to Borrower;
15. Borrower's Counsel's Opinion;
16. Deed of Trust on Property, if applicable;
17. Insurance(s);
18. Personal Guarantees;
19. BRLF Loan Commitment Letter; and
20. Others, as necessary.

All loan payments will be sent directly to Decide DeKalb either via check or ACH deposit. The Director of Finance will apply payments per the terms of the Note. As part of the loan servicing, the Decide DeKalb Project Manager and/or its QEP will make periodic visits to the project site for a visual inspection and to keep the lines of communication open between the

## VII. Loan Servicing

borrower and Decide DeKalb.

All payment requests will follow applicable EPA requirements for fund disbursements.

Quarterly reports will be generated to alert staff to the required servicing responsibilities for the month for each loan. The Director of Finance and Project Manager will confer regarding servicing needs including reviewing any delinquent loans. A quarterly report on all borrowers will be provided to the Decide DeKalb President and Vice President of Redevelopment for their review.

As per the standard Loan Agreement, borrowers are required to submit (i) year-end financial statements, including but not limited to balance sheets and profit and loss statements, within ninety (90) days after the close of each fiscal year prepared by independent, certified public accountants who are satisfactory to Decide DeKalb; and (ii) audited financial statements within six (6) months after the close of each fiscal year. The Loan Agreement terms and conditions may include additional reporting requirements with respect to the financial condition and operations of the borrower and/or guarantors, including but not limited to annual tax returns. In addition, property tax status, insurance on collateral and UCC-1 continuation will be monitored.

The Director of Finance and Project Manager will annually review all loans for compliance with the loan agreement, promissory note, and other applicable requirements. The Director of Finance also will review all submitted financial information and the payment record of all loan recipients to determine their fiscal performance. In addition, the Project Manager will review the tasks accomplished to ensure the goals and objectives of Decide DeKalb's BRLF Program are being achieved.

### A. Delinquency Procedures

A loan will be included in the delinquency report once it becomes **30 days** past due. The Director of Finance will make phone calls to the borrower when a loan becomes **30 days** past due. The Director of Finance will send the borrower a 30-day past due letter. Staff will confer weekly to discuss any loan delinquency and will respond in a prompt manner to reduce problems and find solutions. The Director of Finance will provide a complete delinquency report to Decide DeKalb's President, Vice President of Redevelopment, and Redevelopment Manager on a monthly basis. The President will direct staff as to additional measures to be taken that staff are not already implementing.

**45 days:** The Project Manager will contact the borrower by phone call and/or outside visit, and continue to call the borrower on a weekly basis.

## VII. Loan Servicing

**60 days:** Staff will meet with the borrower in person to discuss the repayment of the loan. The Director of Finance will continue phone contact, and send the borrower a 60-day past due letter. This collection letter will be sent by certified mail return receipt. The Director of Finance will continue to call the borrower regularly to obtain full payment plus late fees. Staff will notify Decide DeKalb's attorney for possible legal action.

**90 days:** Decide DeKalb's attorney will send the borrower a demand letter for all amounts past due, late fees and legal fees due by certified letter. Staff will discontinue contact with the borrower and refer any calls or visits to Decide DeKalb's attorney for payment, notify the Board of Directors Subcommittee, if not previously done.

**120 days:** Loans over 120 days delinquent shall be reported to the Board of Directors.

### B. Uncollectable Loans

All loans deemed to be uncollectable will be written off. After all efforts to collect the loan have been exhausted, the President and Board of Directors will have the responsibility and authority to make the decision to write off the loan. All write-offs must comply with GAAP (Generally Accepted Accounting Principles).

## VIII. CONTACT INFORMATION

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Please visit Decide DeKalb's Brownfields Revolving Loan Fund website at:

[www.decidedekalb.com/redevelopment/brownfields/](http://www.decidedekalb.com/redevelopment/brownfields/)

Tiffany Wills  
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# APPENDIX

- A. U.S. Environmental Protection Agency Region 4 Brownfields Site Eligibility Determination Checklist
- B. Decide DeKalb Brownfields Revolving Loan Fund Flowchart

## U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 4 BROWNFIELDS SITE ELIGIBILITY DETERMINATION CHECKLIST

*To be used to determine eligibility for site-specific work such as Phase II Environmental Site Assessments and Cleanups. If additional space is needed for any response, you may use page 7.*

Cooperative Agreement Recipients (CARs) no longer have separate funding for hazardous substances and petroleum; however, each Brownfield site must still be evaluated for its overall eligibility to receive Brownfields funds. There are different statutory requirements for determining eligibility for hazardous sites versus petroleum sites.

This checklist provides the information necessary to determine eligibility for both hazardous and petroleum sites. The table below will help clarify the four primary categories of sites and guide users to the correct sections in which to determine eligibility.

<p><input type="checkbox"/> <b>HAZARDOUS SUBSTANCE SITES:</b> a site primarily contaminated with hazardous substances. This also includes mine-scarred lands or sites contaminated with controlled substances. Minimal petroleum contamination (hydraulic lifts, oil-filled equipment, etc.) may be present.</p> <p style="text-align: center;"><i>COMPLETE SECTIONS A through E</i></p>	<p><input type="checkbox"/> <b>PETROLEUM SITE:</b> a site with petroleum product remaining in underground or aboveground storage tanks or in associated piping or dispensing equipment, and/or where petroleum product has been dispensed, disposed or discharged from tanks, drums, piping, etc. Minimal hazardous substance contamination may be present.</p> <p style="text-align: center;"><i>COMPLETE SECTIONS A through D, F</i></p>
<p><input type="checkbox"/> <b>COMMINGLED SITE:</b> a site containing both hazardous substances and petroleum contamination, where they are indivisible (or nearly so) for purposes of assessment and/or cleanup. The contaminants are commingled and not readily separated.</p> <p style="text-align: center;"><i>COMPLETE SECTIONS A through E</i></p>	<p><input type="checkbox"/> <b>COMBINED SITE:</b> a site where there are both hazardous substances and petroleum contamination but where the location and distribution of sources and/or contamination generally are distinct and lend themselves to separate assessment and/or cleanup.</p> <p style="text-align: center;"><i>COMPLETE SECTIONS A through F</i></p>

## A. GENERAL INFORMATION

1. Cooperative Agreement Recipient (CAR)/Targeted Brownfields Assessment (TBA) Applicant Name:
2. Grant Type:  
Assessment    Cleanup    Revolving Loan Fund (RLF)    Multipurpose, or  
TBA (Targeted Brownfields Assessment)  
If a Grant, provide the Grant Number:
3. Work to be conducted:  
Assessment    Cleanup    Planning    Other  
If "Planning" or "Other", please explain:
4. Provide the amount of funding estimated to be spent on the site:  
*(Assessments are limited to \$200,000 per site unless<sup>1</sup> a waiver is approved up to \$350,000. RLF subgrant cleanups are limited to \$500,000 per site. Multipurpose grant cleanups are limited to the amount in the EPA-approved budget. Projects funded by the Bipartisan Infrastructure Law (BIL) do not have funding limits on sites.)*
5. Date of proposed work:
6. Name and title of person completing this form:
7. Date Submitted to EPA:

## B. BASIC SITE INFORMATION

1. Site Name and ACRES ID (if available):
2. Site Address (including County and parcel ID):
3. Name of the current owner of the site:  
  
If the CAR/TBA applicant does not own the site, describe their relationship with the owner, and the owner's role in the work to be performed:
4. Identify the operational history and how the site became contaminated and, to the extent possible, describe the nature and extent of contamination. If the land has been vacant for many years, why does the CAR/TBA applicant think that it is contaminated?
5. Identify the current use(s) of the site.
6. Describe the proposed expansion, redevelopment, or reuse of the property and how it aligns with the community's reuse plans:

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<sup>1</sup> Per the Cooperative Agreement Terms and Conditions, the Cooperative Agreement Recipient is responsible for ensuring that EPA's Brownfields assessment funding received under this cooperative agreement, or in combination with any other previously awarded Brownfields Assessment cooperative agreements does not exceed the \$200,000 funding limitation for an individual brownfield site. Waiver of this funding limit for a brownfield site must be approved by EPA prior to the expenditure of funding exceeding \$200,000. In no case may EPA funding exceed \$350,000 on a site receiving a waiver.

7. Does the site meet the definition of a Brownfield (*a real property, the expansion, redevelopment or reuse of which is complicated by the presence or potential presence of hazardous substances, pollutants or contaminants*)?  
 YES  NO
8. Does CAR/TBA applicant have access (or an access agreement) to this property?  
 YES  NO
9. National Historic Preservation Act (NHPA) Compliance:  
**Note: If you answer yes to any of the following questions you should contact your project officer to determine if any additional information is required.**
- a. Is your selected property (site) currently listed in the National Register of Historic Places and/or is it a designated National Landmark?  
 YES  NO
- b. Is your selected property (site) eligible to be listed in the National Register of Historic Places?  
 YES  NO
- c. Is your selected property (site) part of a designated Historic District?  
 YES  NO
- d. Will your project impact the viewshed of any adjacent or surrounding designated Historic Districts or registered historic structures?  YES  NO
- e. Does your project have the potential to impact archaeological resources?  
 YES  NO
- f. Are any on-site structures greater than 50 years old?  
 YES  NO
10. Vulnerability Considerations:
- a. Is the property located in an area with potential environmental justice issues?  
 YES  NO  
 To see if your property potentially impacts an area with these issues, see <https://www.epa.gov/ejscreen>
- b. Is there infrastructure potentially being upgraded or reused because of this project?  
 YES  NO
- c. Is the property or surrounding area potentially vulnerable to extreme weather and/or projected climate change? More vulnerability information can be found at <https://resilience.climate.gov/>  
 YES  NO
- d. If the answer to the previous question is yes, will climate adaptation be incorporated into the design of cleanup and/or reuse planning for the site?  
 YES  NO  Not Known  
 If adaptation guidance is needed, more information can be found at <https://www.epa.gov/land-revitalization/climate-smart-brownfields-manual>  
**Note: Including climate vulnerability consideration in the cleanup alternative analysis is required if EPA Brownfield funding is used for cleanup.**

### C. SITES NOT ELIGIBLE FOR FUNDING BY STATUTE

1. Is the property within the bounds of a Superfunds site listed (or proposed for listing) on the National Priorities List?  
 YES  NO
2. Is the property subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to, or entered into by parties under CERCLA?  
 YES  NO
3. Is the property subject to the jurisdiction, custody, or control of the US government? (Land held in trust by the US government for an Indian tribe is eligible.)  
 YES  NO

***If the answer is YES to any of the above (C.1-3) the property is not eligible. Stop here.***

### D. SITES ONLY ELIGIBLE WITH A PROPERTY SPECIFIC DETERMINATION BY EPA:

1. Is the site/facility subject to a planned or ongoing Comprehensive Emergency Response, Compensation and Liability Act (CERCLA) removal action under the CERCLA (or Superfund)?  
 YES  NO
2. Has the site/facility been the subject of a unilateral administrative order, court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or been issued a permit by the U.S. or an authorized state under the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act (RCRA)), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SWDA)?  
 YES  NO
3. Is the site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h)), and has there been a corrective action permit or order issued or modified to require corrective measures?  
 YES  NO
4. Is the site/facility a land disposal unit that has submitted a RCRA closure notification under subtitle C of RCRA and is subject to closure requirements specified in a closure plan or permit?  
 YES  NO
5. Has the site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation under TSCA?  
 YES  NO
6. Has the site/facility received funding for remediation from any Leaking Underground Storage Tank (LUST)<sup>2</sup> Trust Fund?  
 YES  NO

***If the answer is YES to any of the above (D. 1-6), a property specific determination is required. Consult with your Project Officer. Refer to Section 1.5 of the [Information on Sites Eligible for Brownfields Funding Under CERCLA 104\(k\)](#).***

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<sup>2</sup> 1.5.6. LUST Trust Fund Sites: CERCLA requires a Property-Specific Determination for funding at those sites (or portions of properties) for which assistance for response activity has been obtained under Subtitle I of RCRA from the LUST Trust Fund. EPA's view is that this provision may exclude UST sites where money is being spent on actual assessment and/or cleanup of UST/petroleum contamination.

## E. HAZARDOUS SUBSTANCE SITES *(for Petroleum-only sites, skip to F)*

Answer E.1-7 if the CAR/TBA applicant is the site owner. If the CAR/TBA applicant does not own the site, skip to E.9.

1. How was the property acquired?       Negotiated purchase    Foreclosure    Donation  
 Eminent Domain                       Other (Explain):
2. What is the date that the CAR/TBA applicant acquired the property?
3. Provide the name/identity of the party from whom the CAR/TBA applicant acquired ownership:
4. Provide information about any familial, contractual, corporate, or financial relationships or affiliations the CAR/TBA applicant has or had with all prior owners or operators (or other potentially responsible parties) of the property:
5. Did the assessment grant recipient uphold their continuing obligations (*See Section III.B of the [Enforcement Discretion Guidance Regarding Statutory Criteria for Those Who May Qualify as CERCLA Bona Fide Prospective Purchasers, Contiguous Property Owners, or Innocent Landowners \("Common Elements"\)](#)*) after ownership, including exercising appropriate care and complying with any land use restrictions?  
 YES    NO

6. Did the CAR/TBA applicant cause or contribute to any release of hazardous substances at the site? Did the CAR/applicant arrange for the disposal of hazardous substances or transport of hazardous substances to the site?  
 YES    NO

***If the answer is YES, the property is not eligible, stop here.***

7. Did the CAR/TBA applicant take reasonable steps<sup>3</sup> with regards to the contamination at the site?  
 YES    NO

***If the answer is NO, the property is not eligible, stop here.***

8. Defense to Liability - The site must meet one of the following conditions:
  - Involuntary Acquisition**: The CAR/TBA applicant is a unit of local government who acquired the site through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment, or other circumstances by virtue of its function as sovereign.
  - Bona Fide Prospective Purchaser**: The CAR/TBA applicant conducted a Phase I Environmental Site Assessment or other All Appropriate Inquiry investigation in compliance with ASTM standards prior to acquiring property.
  - Thiry Party and Innocent Landowner Defenses § 107(b)(3) & 101(35)(A)**: The CAR/TBA applicant can prove, by the preponderance of the evidence, the contamination was caused solely by the act or omission of a third party whose act or omission did not occur "in connection with a contractual relationship".
  - The grantee is a federally recognized tribal government entity and is not a "person" under the definition of CERCLA.
  - Publicly Owned Brownfields**: The CAR/TBA applicant is a public entity who acquired the property prior to January 11, 2002, and did not cause or contribute to the contamination.

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<sup>3</sup> Reasonable steps for owners of brownfields are to stop continuing releases; prevent threatened future releases; and prevent or limit human, environmental, or natural resource exposure to earlier hazardous substance releases.

Explain how the CAR qualifies for the defense selected above:

***If the site does not meet any of the scenarios in question 8, the property is not eligible, stop here.***

Answer the following if the CAR/TBA applicant is not the site owner:

9. Is the CAR/TBA applicant potentially liable at the site as an:  Operator,  Arranger  Transporter?  
 YES  NO

***If the answer is YES, the property is not eligible, stop here.***

10. Is the CAR/TBA applicant affiliated with the site owner (familial, contractual, financial)?  
 YES  NO

***If the answer is YES, this site requires discussion with your EPA Project Officer.***

## F. PETROLEUM CONTAMINATION SITES

If the State has made the petroleum eligibility determination, the CAR/TBA applicant must provide EPA with the determination letter or email from the State. See Section 1.3.2 of the [Information on Sites Eligible for Brownfields Funding Under CERCLA 104\(k\)](#). States may apply their own laws and regulations to petroleum eligibility determinations.

If the State has not made a determination, EPA will make the determination, based on the information below:

1. Identify the current and immediate past owner of the site:  
Current Owner  
Immediate Past Owner:
2. Identify the current and immediate past owner of the site's Underground Storage Tank (UST), if applicable:  
Current UST Owner/Operator:  
Immediate Past UST Owner/Operator:
3. Identify when and by what method the current site owner acquired the property (e.g., purchase, tax foreclosure, inheritance, etc.)
4. Responsible Party: did either the current or immediate past site owner:
  - (i) dispense or dispose of petroleum or petroleum product contamination,  
 YES  NO
  - (ii) own the site when any dispensing or disposal of petroleum (by others) took place,  
 YES  NO
  - (iii) exacerbate contamination at the site,  
 YES  NO
  - (iv) fail to take reasonable steps with regards to contamination.  
 YES  NO  
(If yes, explain):
5. (If CAR/TBA applicant is not listed in Question 1) Identify whether the CAR/TBA applicant dispensed or disposed of petroleum or petroleum product, or exacerbated the existing petroleum contamination at the site, and failed to take reasonable steps with regards to the contamination.  
 YES  NO  N/A

6. Has a responsible party been identified through either:
- (a) a judgment rendered in a court of law or an administrative order that would require any person to assess, investigate, or clean up the site; or
  - (b) an enforcement action by federal or state authorities against any party that would require any person to assess, investigate, or clean up the site; or
  - (c) a citizen suit, contribution action, or other third-party claim brought against the current or immediate past owner, that would, if successful, require the assessment, investigation, or cleanup of the site.
- YES  NO
7. Is the site subject to any order under § 9003(h) of the Solid Waste Disposal Act (*subject to RCRA*)
- YES  NO
8. Financial Viability of Responsible Parties:  
If a responsible party has been identified in Question 3, 4, or 5 above, please provide information about whether they have the financial capability (ex. a financial responsibility mechanism) to satisfy their obligations under federal or state law to assess, investigate, or clean up the site<sup>4</sup>.

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<sup>4</sup> EPA will generally deem defunct or insolvent companies, as well as individual parties, to be not financially viable.

**G. SITE ELIGIBILITY DETERMINATION BY EPA PROJECT OFFICER**

If there are any questions regarding site eligibility, the EPA Project Officer should consult with the Regional Brownfields Supervisor/ Section Chief, and/or EPA legal counsel.

- SITE IS eligible for EPA Brownfields Funds
- SITE IS NOT eligible for EPA Brownfields Funds
- SITE IS eligible for EPA Brownfields Funds but requires a Property-Specific Determination (attach)

\_\_\_\_\_  
EPA Project Officer

\_\_\_\_\_  
Date:

**EPA Project Officer Notes:**

## Supplemental Information

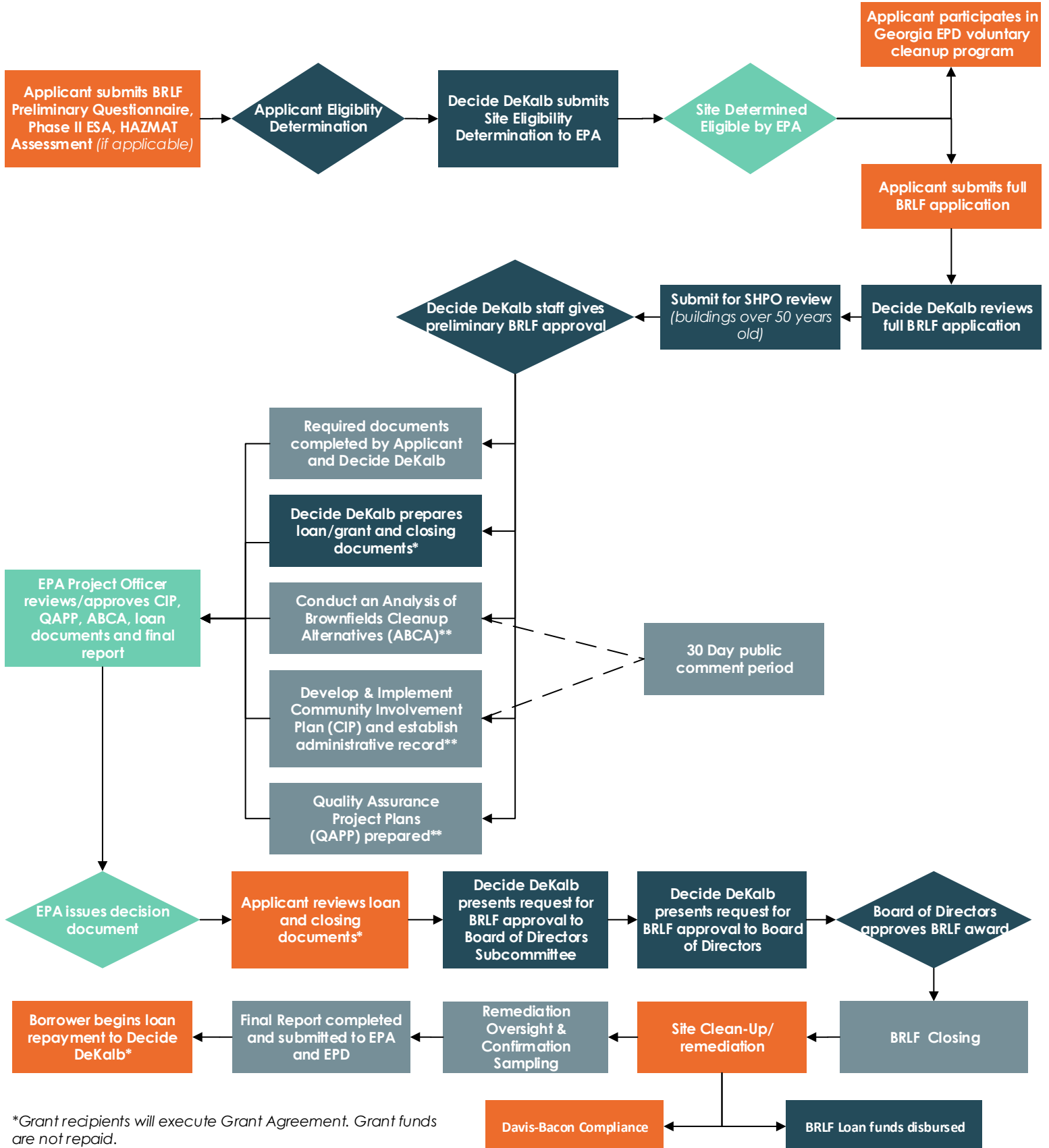
This sheet is provided in case the applicant has more details to share than what is allowed in the PDF fillable boxes. This sheet can be duplicated as many times as needed for the applicant.

Select Section:

A  B  C  D  E  F

Number:

● Applicant    
 ● EPA    
 ● Decide DeKalb    
 ● Decide DeKalb & Applicant



\*Grant recipients will execute Grant Agreement. Grant funds are not repaid.

\*\*Decide DeKalb and their QEP lead drafting of ABCA, CIP and QAPP, with input from Applicant's remediation consultant.