



CITY OF ATLANTA – INVEST ATLANTA

**BROWNFIELD REVOLVING LOAN FUND PROGRAM
GUIDELINES AND PROCEDURES MANUAL**

December 2023

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TABLE OF CONTENTS

TABLE OF CONTENTS	iii
Introduction.....	1
BRLF Target Areas	2
Goals of the Brownfield Revolving Loan Fund Program	5
Borrower and Subgrantee Eligibility.....	6
Site Eligibility.....	8
Petroleum Site Eligibility	8
Subgrants.....	10
Eligible Activities	12
Ineligible Activities.....	13
Eligible Costs.....	14
Community Involvement	15
Documenting Community Involvement and Issuing the Decision Document	15
Project Sign and Acknowledgement of EPA and City of Atlanta/Invest Atlanta Investment.....	15
The Environmental Cleanup.....	17
Conducting an Analysis of Brownfields Cleanup Alternatives (ABCA).....	17
Quality Assurance Project Plan (QAPP)	18
Establishing the Administrative Record	18
Federal Cross Cutting Requirements.....	19
Build American Buy America Project.....	19
Closeout Report.....	20
Additional Loan and Subgrant Requirements.....	21
Loan Parameters.....	23
Loan Amount Guidelines.....	23

Equity.....	23
Interest Rates	24
Terms.....	24
Collateral	24
Loan Application and Approval Process	25
Loan Application Exhibits and Process	25
Application Process.....	25
Required Documents	25
Credit Reports.....	27
Credit Criteria	27
Procedures for Loan Approvals, Documentation of Committee Actions, and Notification of Borrowers	28
Loan Closing and Disbursement.....	29
Appraisals	29
Closing Documentation	29
Loan Disbursement Requirements.....	29
Loan Servicing Procedures	31
Delinquency Procedures.....	32
Uncollectable Loans.....	32
Appendix.....	33

Introduction

City of Atlanta - Invest Atlanta Brownfields Revolving Loan Fund Program

The City of Atlanta - Invest Atlanta Brownfield Revolving Loan Fund (BRLF) Program provides financing for brownfield remediation of eligible projects within the Atlanta city limits. The BRLF program provides loans to private property owners and subgrants to non-profits to support remediation required for site cleanup of a brownfield site. The Environmental Protection Agency defines a brownfield as a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

The City of Atlanta was awarded an US Environmental Protection Agency (EPA) FY 2022 Bipartisan Infrastructure Law (BIL) Brownfield Revolving Loan Fund (BRLF) grant (Cooperative Agreement #-02D34622) to capitalize its Brownfields Revolving Loan Fund program. Invest Atlanta serves as the Fund Manager for the BRLF program through the approval of an Intergovernmental Agreement (IGA) per 23-O-1031.

The Brownfields Revolving Loan Program Guidelines and Procedures Manual provides information about the requirements and procedures of the US EPA Revolving Loan Fund grant program, environmental cleanup requirements, as well as information about site and borrower eligibility, allowable cost, application process, 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 sound loan decisions will be made and establishes parameters for actions related to the City of Atlanta-Invest Atlanta Brownfields Revolving Loan Fund (BRLF) program.

EPA Project Officer Substantial Involvement

The EPA Project Officer for the City of Atlanta-Invest Atlanta Brownfield Revolving Loan Fund Program is substantially involved in the implementation of the program. The Project Office must evaluate the Brownfield site for its overall eligibility to receive EPA Brownfields funds. The City of Atlanta Project Manager or its Qualified Environmental Professional (QEP) will submit the U.S. Environmental Protection Agency Region 4 Brownfields Site Eligibility Determination Checklist (see Appendix). Once the EPA Project Officer has determined that the site is eligible for EPA RLF fund, it can be considered for a loan or a subgrant.

The EPA Project Officer will review and sign the Quality Assurance Project Plan (QAPP) for each brownfield site receiving RLF funding. The EPA Project Officer will closely monitor the loan and subgrants to verify compliance with the EPA-approved workplan and achievement of

environmental results. The EPA Project Officer might participate in meetings and similar events. The EPA Project Officer will review all costs incurred if needed to ensure appropriate expenditure of grant funds.

Participation in the State of Georgia EPD Brownfield Program or other State Program

Projects undertaken with BRLF funding will be required to also participate in the State of Georgia Environmental Protection Division Brownfields Program (<http://epd.georgia.gov/brownfield>) to the extent possible. This requirement, if applicable, will be included in the loan/subgrant agreement.

For parcels that are enrolled in the State of Georgia Environmental Protection Division Brownfield Program, the property owner or perspective property owner must enter into a Brownfields Site Rehabilitation Agreement with the Georgia EPD, or a delegated agency. In addition, a Corrective Action Plan must be approved by the Georgia Environmental Protection Division, or a delegated agency, 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 RLF loan or subgrant, participation in the State Brownfield program will likely not be required.

BRLF Target Areas

Even though loans can be made citywide, the City of Atlanta and Invest Atlanta will focus its marketing and outreach activities and loans/subgrants in the Target Areas listed below. The Target Areas are adjacent to each other and run from the Chattahoochee River in northwest Atlanta to southwest Atlanta as well as several commercial corridors. These areas contain over 60% of the acres with industrial zoning. With this program, the City of Atlanta is able to focus on brownfield redevelopment along historic rail industrial corridors identified through multiple planning initiatives, and ongoing work with partners.

Groundwork Atlanta/ Chattahoochee River: Groundwork Atlanta, a local “trust” developed in partnership with Groundwork USA, EPA and the National Parks Service, has a vision for a more sustainable and equitable NW Atlanta. Neighborhood Planning Units (NPU) D and G are the boundary of Groundwork Atlanta. Proximity to the largest railroad hub in the southeast and the Chattahoochee River led to major industrial uses in this area, many of which are now brownfield sites. An inventory of brownfields, completed with the 2017 Assessment Grant, identified 56 potential sites. Groundworks Atlanta is partnering with the Trust for Public Lands to remediate brownfields along the river as part of the implementation of the Chattahoochee Riverlands.

The Chattahoochee RiverLands (<https://chattahoocheeriverlands.com>), a partnership of the Atlanta Regional Commission, the City of Atlanta, Cobb County and Trust for Public Lands, is a plan for a continuous 100-mile public use along the river with network of greenways and blueways in the Atlanta Region that will bring people to the water's edge, promote stewardship and conservation of the river. The plan identifies sites fronting on the Chattahoochee and within in the Atlanta City limits, also known as the Atlanta Reach, that can become parks and access points to the river.

The Proctor Creek watershed also in NW Atlanta, is a US EPA national Urban Waters Partnership plagued with environmental and health issues such, impaired water quality, brownfield sites, combined sewer/sanitary sewer overflows and pervasive flooding. . As land is converted to parks and other land is redeveloped, Brownfields loans and subgrants can be used to remediate contaminated sites.

The Atlanta Area-Wide Plan (AWP) first identified with a 2010 U.S. EPA Area Wide Planning grant, is located in a former rail-adjacent industrial area with over 250 parcels and 865 acres of industrial sites in SW Atlanta. The AWP Plan created a planning framework to advance economic development and job creation through the assessment, cleanup, and reuse of brownfields. Preliminary ESAs were completed for 14 catalyst sites.

The Atlanta BeltLine is a 22-mile transit and trail project circling Downtown and Midtown Atlanta (www.beltline.org). Atlanta BeltLine Inc. seeks to reuse existing railroad rights-of-way to connect over 40 neighborhoods. The project proposes to assemble and organize the rail corridors and adjacent underutilized urban land for trail and transit development that will connect Atlanta's rail transit system, generate new transit oriented development with commercial and residential development that will accommodate Atlanta's growth. Some of the goals are to provide affordable workforce housing, create over 1,300 acres of new greenspace through a linear park alongside trails, and lead the environmental cleanup of 1,100 acres. A survey of brownfield sites along the BeltLine Corridor identified 146 potential brownfield sites.

Targeted Redevelopment Corridors were designated as priority economic development areas by Invest Atlanta. In addition, the City of Atlanta has adopted redevelopment plans for the corridors listed below.

- **Jonesboro Road:** Jonesboro Road in SE Atlanta parallels a Norfolk Southern rail line. Scrap metal yards, recycling processors, truck terminals and auto impound lots are interspersed in low to moderate income neighborhoods.
- **Memorial Drive** parallels an active east/west freight rail corridor with multiple active and abandoned industrial uses. The corridor has experienced investment over the past several years; however, vacant and underutilized buildings are still present.
- **Donald Lee Hollowell Parkway** a state route connecting Midtown Atlanta with northwest Atlanta and Cobb County and in the Proctor Creek watershed. Land use along its 6 mile

length includes multiple industrial uses; as well as vacant industrial and commercial parcels.

- **Boone Boulevard** is primarily a residential corridor with aging neighborhood commercial uses and some industrial uses along a former rail corridor.
- **Campbellton Road** is developed with older multi-family and commercial properties and is a part of Atlanta's post WWII suburbs.
- **Stadium Neighborhoods** of Summerhill, Peoplestown, Pittsburgh and Mechanicsville neighborhoods are located north and south of rail corridors and in proximity of a former sports stadium.

Goals of the Brownfield Revolving Loan Fund Program

Many parcels in the City of Atlanta have actual or perceived environmental contamination and are often abandoned or underutilized. The presence of contamination along with the risks and costs associated with addressing contamination can be a significant barrier to redevelopment. The City of Atlanta Brownfield Program seeks to revitalize these areas and improve the quality of life in the City of Atlanta.

The Atlanta Brownfields Revolving Loan Fund (BRLF) program works to protect human health and the environment, spur economic revitalization projects, support the construction of affordable housing, and the creation of greenspace.

The goals of the City of Atlanta's Brownfield Program are to improve the quality of life, revitalize neighborhoods and increase the City's tax base by:

- Encouraging sustainable redevelopment of brownfield sites.
- Protecting human health and the environment.
- Supporting the retention and attraction of jobs.
- Maximizing the effectiveness of the Brownfield Program through collaborative efforts; and
- Educating and engaging with the community.

Borrower and Subgrantee Eligibility

Borrowers and subgrantees are eligible for funding for cleanup activities at a site for which a borrower or subgrantee is not potentially liable under CERCLA § 107. In addition, the borrower or subgrantees may not be affiliated with a potentially liable for cleanup costs as described in CERCLA §§ 101(40)(H) and 107(q)(1)(A)(ii).

A borrower or subgrantee must submit information regarding its overall environmental compliance history including any penalties resulting from environmental non-compliance at the site subject to the loan or subgrant.

An entity that is currently suspended, debarred, or otherwise declared ineligible cannot be a borrower or subgrantee.

Borrowers or subgrantee must demonstrate that it meets the requirements for one of the following Landowner Liability Protections:

- Bona Fide Prospective Purchaser (BFPP)
- Contiguous Property Owner (CPO), or
- Innocent Landowner (ILO).

In addition, borrowers and subgrantees asserting a BFPP, CPO, or ILO limitation on liability must meet the items listed below.

- a. Must perform (or have already performed) “All Appropriate Inquiry” (AAI) as provided for in CERCLA § 101(35) (B), on or before acquiring the property. All Phase I and Phase II ESA must be completed for the property and comply with Georgia Environmental Protection Division (EPD) and ASTM guidelines.
- b. Not being potentially liable or affiliated with any other person who is potentially liable for response costs at the site through: any direct or indirect familial relationship, any contractual, corporate, or financial relationships, or 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 release.
- c. Demonstrate that no disposal of hazardous substances occurred at the facility after acquisition by the landowner (does not specifically apply for the CPO protection).
- d. Take “reasonable steps” with respect to hazardous substance releases by stopping any continuing releases, preventing any threatened future releases, and preventing or limiting human, environmental, or natural resource exposure to any previously released hazardous substance.

- e. Comply with any land use restrictions established or relied on in connection with the response action at the site and not impeding the effectiveness or integrity of institutional controls employed in connection with the response action.
- f. Provide full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the site from which there has been a release or threatened release.
- g. Comply with information requests and administrative subpoenas (does not specifically apply for the ILO protection).
- h. Provide all legally required notices with respect to the discovery or release of any hazardous substances at the site.

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.

Unique Entity Identifier (UEI) and Federal Funding Accountability and Transparency Act

Each borrower or subgrantee must have a unique entity identifier (UEI). UEI is generated when an entity registers in the System for Award Management at SAM.gov.

The City of Atlanta will report all awards will be reported Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS).

Borrowers and subgrantees must comply with 2 CFR Part 170, Reporting Subaward and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA).

Reporting Requirements

The borrower or subgrantee agrees to 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 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.

Site Eligibility

Sites eligible for cleanup activities with brownfields funding must meet the definition of a “brownfield site” provided in CERCLA § 101(39) (A). Brownfield sites are defined as “a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant”.

All brownfield sites that will be remediated with BRLF funds (EPA funds and/or program income) must be located within the City of Atlanta.

BRLF funds shall not be used for any of the following properties:

- a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);
- b. Facilities subject to unilateral administrative orders, court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;
- c. Facilities that are subject to the jurisdiction, custody, or control of the United States government except for land held in trust by the United States government for an Indian tribe; or
- d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

Petroleum Site Eligibility

The EPA Project Officer will approve the eligibility of petroleum contaminated sites prior to incurring costs. Documentation to be provided by the loan or sub-grant applicant includes the following:

- a. The State determines there is “no viable responsible party” for the site;
- b. The State determines 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 site is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.

Documentation submitted for a site shall also include:

- a. The identity of the State program official contacted;
- b. The State official's telephone number;
- c. The date of the contact; and
- d. 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.

Subgrants

The City of Atlanta will provide cleanup subgrants to an eligible entity or nonprofit organization to clean up sites owned by the eligible entity or nonprofit organization at the time of the award of the subgrant. The subgrantee must retain ownership of the site throughout the cleanup of the site. Owns means fee simple title.

Eligible subgrantees include eligible entities as defined under CERCLA § 104(k)(1), which includes nonprofit organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, and other nonprofit organizations as defined at 2 CFR § 200.70. Nonprofit institutions of higher education as defined at 2 CFR § 200.55 are also eligible for cleanup subgrants. Nonprofit organizations described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995 are not eligible for subgrants.

To determine whether a cleanup subgrant is appropriate, the City of Atlanta must consider the following as required by CERCLA § 104(k)(3)(C):

- a. The extent to which the subgrant will facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;
- 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 from a revolving loan fund for brownfield remediation

In addition, the City of Atlanta will award subgrants non-competitively. Several factors will be considered when evaluating and awarding subgrant application, these include location in one of

the Target Areas, consistency with the 2021 Comprehensive Development Plan, consistency with the Invest Atlanta Economic Mobility, Recovery & Resiliency Plan and if the project is part of the Mayor's Affordable Housing Faith Based Initiative. (see checklist in the Appendix).

Note: BLRF subgrants can be up to \$500,000 of per site/project.

Eligible Activities

Brownfield RLF funding must be used only for eligible activities and eligible costs. The eligible activities are listed below.

- Determining whether RLF cleanup activities at a particular site are authorized by CERCLA § 104(k).
- Ensuring that an RLF cleanup complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k).
- Limited site characterization to confirm the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed.
- Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA)
- Ensuring that public participation requirements are met.
- Establishing an Administrative Record for each site.
- Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.12.
- Ensuring the adequacy of each RLF cleanup as it is implemented.
- Ensuring that the site is secure if a borrower or subgrantee is unable or unwilling to complete a brownfield site cleanup.
- Using a portion of a loan or subgrant to purchase environmental insurance for the site.
- 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;
- Oversight of cleanup activities;
- Installation of fences, warning signs, or other security or site control precautions;
- Installation of drainage controls;
- Stabilization of berms, dikes, or impoundments; or drainage or closing of lagoons;
- Capping of contaminated soils;
- Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- Excavation, consolidation, or removal of contaminated soils;
- Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum;
- Removal of source materials, including free product recovery; and
- Containment, treatment, or disposal of hazardous materials and petroleum products.

Ineligible Activities

RLF funds cannot be used for the following activities:

- Pre-cleanup Phase I and Phase II environmental site assessment 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;
- 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;
- Construction, demolition, and site development activities that are not 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);
- Job training activities unrelated to performing a specific cleanup at a site covered by a loan or subgrant;
- To pay for a penalty or fine;
- To pay a federal cost share requirement (e.g., a cost share required by another federal grant) unless there is specific statutory authority;
- To pay for a response cost at a brownfield site for which the recipient of the subgrant or loan is potentially liable under CERCLA § 107;
- To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup; and
- Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.

Eligible Costs

The costs listed below are eligible cost for Revolving Loan Funds.

- Costs for design and performance of a response action
- Costs for monitoring of a natural resource (e.g., soil, groundwater) for contamination.

Eligible programmatic costs include:

- Expenses for site cleanup activities under CERCLA § 104(k)(3)(A)(ii);
- Voluntary cleanup program (VCP) or state cleanup program fees associated with the site remediation;
- Costs required to purchase insurance if the purchase of such insurance is necessary to carry out cleanup activities;
- Costs associated with meeting public participation, community notification, worker health and safety, and programmatic management requirements;
- Developing a Quality Assurance Project Plan (QAPP); and
- Ensuring adequacy of cleanup and overseeing activities to ensure compliance with Federal & State requirements.

Community Involvement

Community involvement is an essential component of the Brownfield Revolving Fund Program. Through this process, the public is provided 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 Community Involvement Plan (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 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. RLF grant funds may be used to support community involvement activities as a programmatic cost.

Documenting Community Involvement and Issuing the Decision Document

After the public comment period is complete, the City of Atlanta Project Manager or its Qualified Environmental Professional 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.

Project Sign and Acknowledgement of EPA and City of Atlanta/Invest Atlanta Investment

The EPA Brownfield Revolving Loan Fund that has been awarded to the City of Atlanta is funded by the Bipartisan Infrastructure Law. Loan and grant 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”

In addition, the City of Atlanta might erect a sign or banner 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 the “City of Atlanta’s Brownfields Revolving Loan Fund in partnership with Invest Atlanta and sponsored by the United States Environmental Protection Agency.” The sign will have EPA’s and City of Atlanta’s logos placed on a visible location.

Any documents, fact sheets, and/or web materials, 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, the City of Atlanta Brownfields Program and Invest Atlanta) and/or EPA and the City

of Atlanta Brownfields Program logo acknowledging that the EPA and City of Atlanta Brownfields Program are a source of funding for this project.

In addition, public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, the loan/subgrant recipient will provide the opportunity for attendance and participation by EPA, City of Atlanta and Invest Atlanta representatives with at least ten (10) working days' notice.

The Environmental Cleanup

Environmental cleanups funded with the Brownfield Revolving Loan Fund in general to follow the steps outlined below.

- Determining if the Site, the Borrower/Subgrantee, and the Environmental Cleanup are Eligible for Brownfields Funding; providing All Appropriate Inquiry Documentation;
- Preparing a Community Involvement Plan Planning Community Involvement;
- 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, and
- Preparing a Closeout Report and a Compliance Status Report (CSR). Submitting No Further Action Letter from GA EPD

Conducting an Analysis of Brownfields Cleanup Alternatives (ABCA)

For each site receiving a loan or subgrant, the City's Qualified Environmental Professional or the Recipients 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.

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. the City of Atlanta BRLF Qualified Environmental Professional or the Recipient’s environmental professional will prepare and submit to the EPA Project Officer an approvable Quality Assurance Project Plan (QAPP) at least 30 days prior to the initiating of data collection or data compilation.

The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the 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 activity.

Establishing the Administrative Record

For each loan/subgrant, the City of Atlanta will establish an Administrative Record. The Administrative Record includes all relevant site information and documents that form the basis for the selection of a cleanup. This may include appropriate sections of loan or subgrant documents necessary to ensure that cleanup requirements are met.

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

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

Federal Cross Cutting Requirements

The borrower or subrecipient 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 <https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>

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).

The City of Atlanta's BRLF QEP subconsultant will monitor the cleanup activities for compliance with Davis Bacon requirements.

Build American 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 this award 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>.

Closeout Report

Loan and subgrant recipients and the City and Invest Atlanta's Qualified Environmental Professional (QEP) shall ensure the adequacy of each RLF 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 RLF funded environmental cleanup is completed, the City of Atlanta will work with the borrower and subgrantee to ensure the successful completion of an RLF 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 the City's and Invest Atlanta QEP for concurrence and submitted to EPA Project Officer for review and approval. If the site is enrolled in the GA EPD Brownfield 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 RLF cleanup, the City of Atlanta 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.

Additional Loan and Subgrant Requirements

The borrower or subrecipient must meet the cleanup and other program requirements of the RLF loans and grants. The following terms and conditions will be included in RLF loan agreements and subawards:

- a. 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.
- b. Borrowers or subgrantees shall ensure that the cleanup protects human health and the environment.
- c. Borrowers or subgrantees shall document how funds are used.
- d. 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 the City of Atlanta (COA) prior to disposing of records, so that the COA can maintain the records, if necessary, for complying with the COA'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.
- e. 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.
- f. 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.
- g. Borrowers or subgrantees shall conduct cleanup activities as required by the City of Atlanta.
- h. 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.
- i. 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. The City of Atlanta must oversee and manage loans as required by 2 CFR §§ 200.330 through 200.332.
- j. 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.

- k. The Borrowers and subrecipients must accept the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the State of Georgia as follows:
 - i. MBE: Construction, Supplies, Services and Equipment: 4.0%
 - ii. WBE: Construction, Supplies, Services and Equipment: 4.0%

Loan Parameters

Invest Atlanta/City of Atlanta BRLF Review Committee

The City of Atlanta BRLF is an equal opportunity lender, considering loan applications without regard to race, gender, national origin, or ethnic background. The BRLF Review Committee, (the Committee) composed of Invest Atlanta staff will review loan and subgrant applications and make recommendations to Invest Atlanta board subcommittees.

Loan Amount Guidelines

Invest Atlanta has established economically sound structures and day-to-day management and processing procedures to maintain the RLF and meet long term brownfield cleanup lending/subgranting objectives. These include establishing: underwriting principles, the establishment of interest rates, repayment terms, fee structure, and collateral requirements sufficient to recover, as a minimum, the principal amount of the loan less any repayment discounts; and, lending/subgranting practices that can include loan/subgrant processing, documentation, approval, servicing, administrative procedures, collection, and recovery actions.

The preferred loans and sub-grants will be a minimum of (\$50,000) fifty thousand dollars; no maximum loan limit will be established to ensure flexibility. Sub-grants can't exceed five hundred thousand dollars (\$500,000). In cases where limited financing from a private/traditional source is available, loans can be used as supplemental or "second mortgage" funds. Second positions on collateral may be acceptable so long as the prior lien holder is a lending institution.

Equity

When business owners can contribute equity/cash without impairing cash flow, equity will be required. For each individual loan the equity requirement will generally range from ten to twenty percent of the total project cost.

Businesses may be required to inject funds into the project depending upon; 1) whether the business has adequate equity, generally determined to be defined as a debt-to-net worth ratio that is 4:1 or less; 2) the overall strength of the business; 3) collateral coverage; and 4) availability of cash to put into the project. These elements are all considered in determining the equity required for each project.

Exceptions may be made on a case-by-case basis depending upon the particular project. It is BRLF's general philosophy that existing equity or previous cash injection into the business indicates a reasonable level of commitment to the business; therefore, consideration will be given to existing equity in determining new equity required as a result of the project being financed.

Interest Rates

Interest rates will be established to meet the needs of borrowers while yielding income to support the administrative expenses of City of Atlanta/Invest Atlanta BRLF program. The interest rate, as a general rule, will be less than or equal to the prime interest rate, but not less than zero percent. It is anticipated that loan rates will be between zero percent (0%) and the current market rate plus one hundred basis points. The prime rate shall be the prime rate quoted in the Wall Street Journal or the maximum interest rate allowed under State law. 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. The Committee will establish the rates, based on the ability of the company to support the debt service, and the overall risk of the project. Repaid interest will be retained to pay administrative expenses of the program.

Terms

Loan terms will be based upon the borrower's needs, repayment ability and how much the borrower is financing. Repayment terms will be customized depending on the projects cash flow needs. Interest only payments may be made available for the first year; however, all loans will be fully amortized by a daily rate. Deferred payments may be an option in structuring a workout plan. Generally, terms will be kept as short as practical in order to recycle funds. All conditions, including the loan term, will be evidenced by a promissory note, security documents, and other closing documents, as necessary, to be signed at closing.

Collateral

The Brownfield RLF Review Committee 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 Committee. The value of pledged collateral (i.e.: Real Estate, Securities, Equipment, etc.) would be verified through a market analysis, appraisal or other means that are deemed appropriate for the particular project. Liens will be placed on all collateral. Liens may also be placed on other non-- project personal assets of the borrower in order to further secure the loan. As an abundance of caution, City of Atlanta/Invest Atlanta BRLF will secure its loans to the maximum extent possible to ensure an adequate secondary source of repayment.

Personal guarantees may be required of the principal borrowers according to the circumstances involved. Key man or term insurance also may be required, if warranted by the Committee.

Loan Application and Approval Process

Loan Application Exhibits and Process

Before an application is prepared, staff will collect preliminary information to determine, to the maximum extent possible, that the potential borrower and project are eligible. This first step in the loan selection process will be a staff review of the proposed activity to screen for conformance with the objectives and guidelines of the program. Based on the outcome of this initial review, the potential borrower will either be referred to other sources of financing or invited to prepare a complete application. A U.S. Environmental Protection Agency Region 4 Brownfields Site Eligibility Determination Checklist signed by the EPA Project is needed before the loan application will be considered by Invest Atlanta.

The Borrower must be in good financial standing, current on all property taxes and other obligations to the City demonstrate ability to repay the loan and complete the project successfully. The borrower needs to demonstrate that it has secured financing necessary to complete the project.

Application Process

1. Application Form Completed and submitted along with supporting documentation.
 - a. All Appropriate Inquiry Documentation, Environmental Assessment Report/ Engineering Evaluation Cost Analysis of State of Georgia Brownfield registration letter
 - b. Letter of site eligibility
 - c. Cleanup Plan, Corrective Action Plan, Remediation Budget etc.
2. Review of Financial Condition & Business/ Development Plan
3. Loan Review Committee Meeting
4. Invest Atlanta Committee (either Finance or Economic Development) Meeting Vote
5. Invest of Atlanta Board Meeting Vote on Resolution to award a loan or subgrant
6. Decision Made
7. Commitment Letter with Terms and Conditions
8. Establishment of Offer and Terms
9. Loan/ Grant Closing
10. Cleanup
11. Disbursement of Draws during cleanup process
12. Verification and monitoring of the cleanup
13. Retesting, as needed.

Required Documents

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

1. History and description of the business: describing the formation of the business, the owner(s), the products and services provided.
2. Project costs, requested loan amount: the costs of the project and committed or potential sources of financing.
3. Resume of owner(s) and key management personnel.
4. Occupation/ Business License
5. Articles of Incorporation
6. Business financial statements for three previous 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 loan can be repaid.
7. Current Business Financial Statements: Balance Sheet, Income Statement, etc. not over 90 days old.
8. Financial Projections for two years, including Balance Sheet, Income Statement, and Cash Flow showing proposed financing.
9. Personal Financial Statement(s) on Owner(s) and Income Tax Returns for three 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 the already completed Personal Financial Statement will be accepted, if not more than 90 days old.
10. Schedule of Existing Personal Debts.
11. Schedule of Existing Business Debts.
12. Personal Credit Bureau Report for all Principals.
13. List of Collateral offered to secure proposed loan with outstanding loan balances (prior mortgages, etc.).
14. Other financing associated with the project.
15. Legal Property Description
16. Assessment Report
17. Brownfield Agreement with State of Georgia
18. Final Work Plan
19. ABCA Draft
20. Community Engagement Plan and 30 Day Public Review
21. QAPP
22. Endangered Species Act Consultation
23. National Historic Preservation Act Consultation with the State Historic Preservation Officer (SHPO)
24. Other Funding Confirmation
25. Davis Bacon Wage Rates Certification Form
26. Contract with a Qualified Environmental Professional
27. Cleanup Budget
28. Cleanup Contract (contracts need to meet Federal Procurement requirements 40 CFR

- Part 30).
- 29. Cleanup Schedule
- 30. Cleanup Contractor Insurance
- 31. Site Photos

All applicants shall submit applications, clean-up plan and supporting documentations to Invest Atlanta and the City of Atlanta. Upon completion of the loan application, staff will conduct an analysis to ascertain the project's potential for success. This review will entail a review of the business plan and/or information listed above. An in-depth credit analysis will be conducted, by a separate Invest Atlanta loan committee that has loan underwriting background, 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 business plans are viable and well timed, 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 Loan Review Committee.

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.

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

Procedures for Loan Approvals, Documentation of Committee Actions, and Notification of Borrowers

Loan decisions will be made at Committee meetings when a quorum is present. Members may review the loan write-up prior to Committee meetings. At the meetings staff will provide a more detailed overview of the business and an in-depth financial and credit analysis of the project. Meetings will be scheduled as needed, and Committee members will be notified of meetings at least ten (10) calendar days' prior.

The Committee may establish parameters, which certain decisions can be made by staff without Committee consideration. Staff may approve 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 no longer owns stock, and release of secondary collateral after half of the loan term is paid are examples of situations where staff approval is sufficient. Committee members will be notified of staff actions at the next Committee meeting. For more complex requests, such as loan assumptions, direct Committee action is required. In these cases, a memorandum outlining the request, along with a recommendation from staff, shall be mailed to Committee members. Voting should occur at the next Committee meeting.

Loan Closing and Disbursement

After the Committee has approved a loan, staff will initiate the closing process. After a commitment letter has been issued and the conditions and terms have been accepted (in writing) by the borrower, a conference with the Invest Atlanta's attorney may take place to determine the documents needed for closing. All loan documents must be approved and executed by the Invest Atlanta Legal Department. Either a set of standard loan documents will be developed by staff and provided to the borrower's attorney, or the Invest Atlanta'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.

Appraisals

The Committee or other approvers on a case-by-case basis will determine appraisal requirements. They may not always be required because of the appraisal cost relative to loan size. When required by the Committee or other approvers, they will be conducted by appraisers satisfactory to the Invest Atlanta 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.

Closing Documentation

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

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

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

Loan Disbursement Requirements

Funds will be disbursed to the recipient by means of "actual expense". An "actual expense" disbursement approach requires the recipient to submit documentation of the borrower's expenditures (e.g., invoices) to Invest Atlanta to request payment (i.e., a Draw).

Loan Servicing Procedures

Once the loan is closed, the applicant is entered into the best available loan servicing database by the loan processor. A file will be developed for the new account and will contain, at a minimum, the following sections, as applicable:

- Pre-application/ Application forms: Copies of all application documents as submitted by the applicant;
- Correspondence Received;
- Correspondence Sent;
- Copies of the Loan Agreement and Promissory Note;
- Collateral Agreement;
- Uniform Commercial Code (UCC) filings, if applicable
- Inter-creditor Agreement, if applicable;
- Credit Reports;
- Corporate charter, or Articles of Incorporation and By-Laws or Partnership Agreement;
- Corporate Resolution to Borrower;
- Borrower's Counsel's Opinion;
- Deed of Trust on Property, if applicable;
- Insurance(s);
- Personal Guarantees;
- BRLF Loan Commitment Letter;
- Telephone Log; and,
- Others, as necessary.

Payments will be sent directly to the Invest Atlanta. The loan processor or fund manager will apply payments per the terms of the Note. The fund manager shall be a person designated by the Invest Atlanta Finance Department Senior Vice President or another member of the senior executive staff. As part of the loan servicing the loan processor or fund manager will make periodic visits to the project site for a visual inspection and to keep the lines of communication open between the borrower and the Invest Atlanta.

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

Monthly reports will be generated as per a tickler system to alert staff to the required servicing responsibilities for the month for each loan. The loan processor and fund manager will confer regarding servicing needs including reviewing any delinquent loans. A monthly report on all borrowers will be provided to the Committee for their review.

Borrowers may be asked to submit annual tax returns, financial statements and job reports. In addition, property tax status, insurance on collateral and UCC-1 continuation will be monitored.

The fund manager will annually review all loans for compliance with the loan agreement, promissory note, and other applicable requirements. The fund manager also will review all submitted financial information and the payment record of all loan recipients, as reported by the Finance Department, to determine their fiscal performance. In addition, the fund manager will review the tasks accomplished to ensure the goals and objectives of the City of Atlanta BRLF Program are being achieved.

Delinquency Procedures

A loan will be included in the delinquency report once it becomes 15 days past due. The fund manager or loan processor will make phone calls to the borrower when a loan becomes 15 days past due. Staff will confer weekly to discuss any loan delinquency and will respond in a prompt manner in order to reduce problems and find solutions. A complete delinquency report will be provided to the Committee at each meeting. The Committee directs staff as to additional measures to be taken that staff is not already implementing.

30 days: Staff will contact borrower again by phone call, outside visit and/ or send the borrower a 30-day past due letter and continue to call the borrower on a weekly basis.

45 days: Contact the borrower in person to discuss the repayment of the loan, continue telephone contact and/ or send the borrower a 45-day past due letter and report to the INVEST ATLANTA credit reporting agency. This collection letter will be sent certified mail with return receipt requested. Continue to call borrower regularly to obtain full payment plus late fees. Notify Committee and the Invest Atlanta's attorney for possible legal action.

60 days: The Invest Atlanta's attorney will send the borrower a demand letter for all amounts past due plus late fees and legal fees due by certified letter. Discontinue contact with borrower, refer any calls or visits to our attorney for payment, and notify the Committee, if not previously done. Report to credit reporting agency.

90 days: Loans over 90 days delinquent shall be reported to the Committee, and automatically forwarded to the Invest Atlanta's attorney for additional legal action and resolution.

Uncollectable Loans

All loans deemed to be uncollectable would be written-off. The Committee, after all efforts to collect the loan have been exhausted; will have the responsibility and authority to make the decision to write off the loan. All write offs must be in compliance with GAAP (Generally Accepted Accounting Principles).

Appendix

City of Atlanta Brownfield Revolving Loan Fund Fact Sheet

**U.S. Environmental Protection Agency Region 4 Brownfields Site Eligibility
Determination Checklist**

**The City of Atlanta Brownfields Revolving Loan Fund Subgrant Award Process
Threshold Eligibility Requirements**

Brownfields Revolving Loan Fund Flowchart