

**Brownfields Revolving Loan Fund (RLF) Program
Frequently Asked Questions (FAQs)
(as of May 9, 2024)**

NOTE:

- EPA prepared these FAQs as guidance to help RLF cooperative agreement recipients (CARs) with management of their RLF programs. In general, the FAQs noted below assume the CAR’s cooperative agreement (CA) is operating under FY22 or later terms and conditions (T&Cs), and in some cases, FY23 or later T&Cs. However, CARs need to understand that CA T&Cs vary considerably across all open RLF CAs, and therefore, these FAQs do not address every CAR’s specific CA T&Cs. The hierarchy of requirements a CAR must follow are: 1) [Comprehensive Environmental Response, Compensation, and Liability Act \(CERCLA\) 104\(k\)](#) or another statute such as the Davis Bacon Act or the National Historic Preservation Act, 2) [2 Code of Federal Regulations \(CFR\) Part 200](#) and [2 CFR Part 1500](#) or another regulation, 3) the CA’s T&Cs, and 4) interpretations of requirements as discussed in these FAQs.
- EPA intends to update these FAQs on a periodic basis when additional guidance is needed in response to FAQs from RLF CARs. Always consult the latest version on the [Brownfields Program website](#).
- Some FAQs reference cost share, but BIL CAs do not have a cost share requirement. Therefore, references to cost share are only applicable to any non-BIL CAs in a CAR’s RLF program.
- All references below to OBLR’s FY23 RLF Policy Memorandum are for the final version dated May 18, 2023 on the [Brownfields Program website](#).

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1. Can EPA provide a list of acronyms that are relevant to RLF grants?

AAI	All Appropriate Inquiries
ABCA	Analysis of Brownfields Cleanup Alternatives
ACH	Automated Clearing House
ACHP	Advisory Council on Historic Preservation
ACRES	Assessment, Cleanup and Redevelopment Exchange System
ASAP	Automated Standard Application for Payments
BABA	Build America, Buy America Act
BFPP	Bona Fide Prospective Purchaser
BIL	Bipartisan Infrastructure Law (BIL is used interchangeably with IJA)
CA	Cooperative Agreement
CAR	Cooperative Agreement Recipient
CDBG	Community Development Block Grant
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CIP	Community Involvement Plan
COA	Closeout Agreement
COI	Conflict of Interest
CPO	Contiguous Property Owner
DBA	Davis-Bacon Act
DBE	Disadvantaged Business Enterprise
EC	Engineering Control
EI	Environmental Insurance
EDA	Economic Development Administration
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FAPIIS	Federal Awardee Performance and Integrity Information System
FAQ	Frequently Asked Question
FFATA	Federal Funding Accountability and Transparency Act
FFR	Federal Financial Report
FON	Funding Opportunity Number
FSP	Field Sampling Plan
FSRS FFATA	Subaward Reporting System
FUDS	Formerly Used Defense Sites
FUSRAP	Formerly Utilized Sites Remedial Action Program
FWPCA	Federal Water Pollution Control Act
FWS	Fish and Wildlife Service
FY	Fiscal Year
GMO	Grants Management Officer
HUD	Department of Housing and Urban Development
IC	Institutional Control
IJA	Infrastructure Investment and Jobs Act (BIL is used interchangeably with IJA)

ILO	Innocent Landowner
IR	Intergovernmental Review
LUST	Leaking Underground Storage Tank
MBE	Minority Business Enterprises
MOA	Memorandum of Agreement
NFA	No Further Action
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NPL	National Priority List
OBLR	Office of Brownfields and Land Revitalization
OCFO-OC	Office of the Chief Financial Officer's Office of the Controller
OIG	Office of Inspector General
OMB	Office of Management and Budget
OSHA	Occupational Safety and Health Administration
PCPI	Post-Closeout Program Income
PI	Program Income
PILOT	Payment in Lieu of Taxes
PO	EPA Project Officer (referred to as Project Manager in some EPA Regions)
POC	Point of Contact
PPF	Property Profile Form
QAPP	Quality Assurance Project Plan
QAPrP	Quality Assurance Program Plan
QEP	Qualified Environmental Professional
RCRA	Resource Conservation and Recovery Act
RFA	Request for Application
RLF	Revolving Loan Fund
SAM	System for Award Management
SAP	Sampling and Analysis Plan
SBA	Small Business Administration
SDWA	Safe Drinking Water Act
SHPO	State Historic Preservation Officer
SPOC	Single Point of Contact
TAB	Technical Assistance to Brownfields
T&Cs	Terms and Conditions
TCSP	Transportation and Community System Preservation
THPO	Tribal Historic Preservation Officer
TIF	Tax Increment Financing
TIP	Technology Innovation Program
TSCA	Toxic Substances Control Act
UEI	Unique Entity Identifier [formerly known as Data Universal Numbering System (DUNS)]
UGG	Uniform Grant Guidance

ULO	Unliquidated Obligations
URA	Uniform Relocation Assistance and Real Property Acquisition Act
USACE	United States Army Corps of Engineers
USC	United States Code
USDA	United States Department of Agriculture
UST	Underground Storage Tank
VCP	Voluntary Cleanup Program
WBE	Women Business Enterprises

2. Can two separate RLF CARs select the same site for an RLF subgrant of \$350,000 each (in combination, providing \$700,000 in subgrant funds) to that site?

Yes, provided all other eligibility requirements are met and the extent of the contamination justifies the amount of funding. Furthermore, if both these CAR’s CAs have FY22 or later T&Cs, each CAR could actually contribute \$500,000 of their total award amount to the site cleanup since that is the subgrant cap under their T&Cs. However, the subgrantee must have stringent accounting controls to ensure that the same costs are not charged to both subgrants. EPA strongly recommends that the two CARs coordinate oversight in this scenario. Note that this is allowed because the subgrant cap applies to each CAR per their T&Cs (i.e., the total subgrant sum from multiple CARs for a single site can exceed the subgrant cap specified in their T&Cs, as long as each CAR’s contribution does not exceed the subgrant cap specified in their T&Cs).

See the table below for additional details on how RLF funds can be combined at the same site:

Restrictions when combining RLF funds at the same site...	With another RLF Subgrant from the same CAR	With another RLF Subgrant from a different CAR	With RLF Discounted Loan from the same CAR	With RLF Discounted Loan from a different CAR
CAR’s RLF Subgrant	Allowed, provided subgrant cap is not exceeded [e.g., no more than \$500K of CAR’s total award amount (EPA funds + cost share <i>for all open RLF CAs</i> ¹)/site]	Allowed, provided subgrant cap is not exceeded for <u>each</u> CAR	Not allowed	Allowed, provided subgrant cap and discounted loan limits are not exceeded for <u>each</u> CAR
CAR’s RLF Discounted Loan	Not allowed	Allowed, provided subgrant cap and discounted loan limits are not exceeded for <u>each</u> CAR	Allowed since there is no limit on number of discounted loans/site	Allowed since there is no limit on number of discounted loans/site

¹ The italicized text is in FY23 and later RLF CA T&Cs. See FAQs #6 – 8 for a more detailed explanation.

3. Is there a limit to how many Brownfields Grants can be combined at a site (e.g., can a 128(a) subgrant, a Cleanup Grant, and two RLF subgrants from two different CARs be used at the same site)?

No. All of these Brownfields Grants can be used in combination at the same site, as long as the amount of funding from each grant meets that CA’s T&Cs and cleaning up the site falls within the geographic boundaries described in the scopes of work for all grants. Accurate tracking of expenses is needed to prevent duplication of charges between grants.

4. What are key differences between loans, discounted loans, and subgrants to keep in mind when deciding which to use for a site cleanup?

The following table provides a summary of key differences between loans, discounted loans, and subgrants based on the FY22 CA T&Cs. In general, EPA advises that a discounted loan be used, rather than combining a loan and subgrant, at the same site because a discounted loan provides some advantages per the differing requirements shown below.

Requirements and Allowances ¹ for →	Loan	Discounted Loan	Subgrant
Site Ownership	Not required	Not required	Required by statute at the time of subgrant award, and throughout the period of performance of the subgrant agreement
Intra-Governmental/ Intra-Nonprofit	Allowed when eligibility criteria are met ²	Not allowed	Not allowed
Can be awarded to for-profit entity	Allowed	Not allowed	Not allowed
Federal Procurement Standards at 2 CFR 200.317 through 200.327	Not required	Not required	Required
Consultant fee cap at 2 CFR 1500.10	Not required	Not required	Required
Indirect Costs	Not allowed to be charged by borrower to loan	Not allowed to be charged by borrower to loan	Allowed to be charged by subgrantee, but subject to the 5%

Requirements and Allowances ¹ for →	Loan	Discounted Loan	Subgrant
			administrative cost limitation
50/50 Split Rule <i>(do not include program income in calculation)</i> ³	At least 50% of each open CA’s total award amount (EPA funds plus the associated cost share) must be used to provide loans for the cleanup of eligible brownfield sites and for associated eligible programmatic costs	Forgiven principal portion of discounted loan applies to the other 50% (i.e., non-loan costs)	Applies to the other 50% (i.e., non-loan costs)
Dollar Limits <i>(do not include program income in calculation)</i>	No limit	Forgiven principal cannot exceed 50% of the total loan amount or exceed \$500,000 of the CAR’s total award amount (EPA funds plus any associated cost share <i>for all open RLF CAs</i> ⁴) ⁵	\$500,000 of the CAR’s total award amount (EPA funds plus any associated cost share <i>for all open RLF CAs</i> ⁴) per site

¹ This table assumes the CAR is operating under FY22 or later RLF CA T&Cs. Requirements may be different for pre-FY22 CA T&Cs.

² See FAQ #5 for more details on eligibility requirements for an intra-governmental loan.

³ See FAQs #9 - 11 for more details.

⁴ The italicized text is in FY23 and later RLF CA T&Cs. See FAQs #6 – 8 for a more detailed explanation.

⁵ For example, a loan of \$2M from EPA funds + cost share could not be discounted by 50% since that would be \$1M which exceeds the \$500,000 max discount.

5. What is an intra-governmental loan or intra-nonprofit loan and when can it be used?

Intra-entity loans (a.k.a. loans to yourself) are transactions between components of the CAR that are structured to ensure that there is a legally binding, independently enforceable requirement to repay the loan. *Note: Current EPA policy limits loans of this type to governmental recipients. Absent a case-by-case waiver for a non-profit entity approved by EPA, intra-nonprofit entity loans are not allowed. Non-profit recipients should contact their PO for additional information.*

An intra-governmental loan is a direct loan by the CAR lending to a branch within its own governmental unit. There are several scenarios in which intra-governmental loans might be needed to facilitate brownfields redevelopment. One example is the case of properties that are considered difficult to redevelop and reuse because associated costs and perceived liabilities make the property unattractive to private investors and developers. Often local governments acquire these properties through tax foreclosure, condemnation, or similar governmental processes. To make these properties viable for redevelopment, they must first be cleaned up. If a CAR is a branch of that same governmental unit with ownership of the condemned property, then intra-governmental borrower eligibility requirements apply. These requirements are discussed below.

For an intra-governmental loan, standard loan eligibility restrictions apply, but the CAR must also do the following:

- ▶ Establish that the borrowing entity has the legal authority to enter into a legally binding obligation to repay (for example, a memorandum from the city’s legal counsel citing the statutory authority or a city council resolution that obligates the repayment from a particular funding source). The obligation to repay must be more than a “moral” obligation to repay or a simple, unenforceable “promise” to try to do so.
- ▶ Ensure that there is an identifiable source of income/repayment. For example, payment in lieu of taxes (PILOT) funds, proceeds from tax increment financing (TIF), or funding from the sale, rent, or lease payments of the property.
- ▶ Identify an independent enforcement entity that can ensure that the loan is repaid. For example, specifying that the comptroller’s office of the recipient will enforce the loan terms can help avoid potential conflicts of interest.

If a CAR chooses to make an intra-governmental loan, borrower eligibility requirements would apply and the substantive terms of the agreement must be reviewed by EPA.

6. In OBLR’s FY23 RLF Policy Memorandum, the language describing the \$500,000 subgrant cap indicates CARs may not use more than \$500,000 of the CAR’s total award amount. Why would the subgrant limit not be framed as a total cap of \$500,000 per site? Not clear as to the significance of the site subgrant cap as a function of the total award amount.

The term total award amount applies to the CAR’s RLF funds and does not refer to the award amount of any individual subgrant or loan for a specific site. The term is used for two reasons for both the subgrant cap and discounted loan limit per site:

- First, neither the subgrant cap nor the discounted loan limit apply to program income or leveraged funds. By using the term total award amount, EPA is specifying that the cap/limit applies to EPA funds + any cost share required (if applicable – e.g., a non-BIL funded grant). CARs sometimes think that the EPA funding amount is the CA award amount, but EPA considers any cost share requirement to be part of the CA’s total award amount since the award was made on the condition that the CAR meet that requirement by incurring eligible and allowable costs (as required by 2 CFR 200.306(b)(3) and (4)) before the CA is closed out.
- Second, per OBLR’s FY23 RLF Policy Memorandum and FY23 and later CA T&Cs, the cap/limit applies to the total award amount for all the CAR’s open RLF CAs. That

is, a waiver would be needed to use more than \$500,000 of BIL and non-BIL RLF CA funds from the same CAR at the same site. See FAQ #8 for situations where none of the CAR's open CAs have FY23 and later T&Cs.

- Important note: Unlike the subgrant cap and discounted loan limit, when determining compliance with the minimum 50/50 split, the total award amount is per CA (rather than for all the CAR's open RLF CAs), unless the CAR has an approved waiver for Option 1 in OBLR's FY23 RLF Policy Memorandum.

7. Does the \$500,000 subgrant cap apply to all cooperative agreements or just those that are issued from FY22 and later? And does the ability to provide a discount of up to 50% of a loan with a \$500,000 max discount apply to all cooperative agreements or just those that are issued from FY22 and later?

The subgrant cap and discounted loan limits were increased in FY22 T&Cs, so the CAR must have FY22 or later T&Cs to take advantage of the higher cap/limit.

8. If a CAR has two open CAs with FY22 or earlier T&Cs, which T&Cs govern the maximum subgrant amount per site (i.e., the subgrant cap)?

The subgrant cap per site is governed by the T&Cs for each CA's funding that will be used at the site. For example, if the CAR's first open CA has FY20 T&Cs, the CAR can subgrant up to \$350,000 of that CA's total award amount for cleanup work at a single site without a waiver. If the CAR's second open CA has FY22 T&Cs, the CAR can subgrant up to \$500,000 of that CA's total award amount for cleanup work at a single site without requesting a waiver. Therefore, the CAR could have an \$850,000 subgrant at the site without requiring a subgrant waiver. The requirement in OBLR's FY23 RLF Policy Memorandum to use the CAR's total award amount for all open CAs (rather than each individual CA's total award amount) when determining compliance with the subgrant cap and discounted loan limit is not applicable, since that is only included in FY23 and later T&Cs. Once any CA in the CAR's RLF program has FY23 or later T&Cs, when using funding from both CAs for a site, the requirement of using the CAR's total award amount for all open CAs (rather than each individual CA's total award amount) becomes applicable for determining compliance with the subgrant cap and discounted loan limit.

9. What is meant by the 50/50 split rule for RLFs?

The 50/50 split rule is based on the following RLF financial structure:

Loans	Everything Else (aka all other non-loan costs)
At least 50% of each open CA's total award amount (EPA funds plus the associated cost share) must be used to provide loans for the cleanup of eligible brownfield sites and for associated eligible programmatic costs by the end of the CA project period.	No more than 50% of each open CA's total award amount (EPA funds plus the associated cost share) may be used for all other eligible programmatic costs that are <u>not</u> associated with loans, such as subgrants, forgiven principal in discounted loans, and eligible programmatic costs to manage/market the RLF.

This has historically often been referred to as meeting the 50/50 loan-to-subgrant ratio, but it should instead be referred to as the 50/50 split rule since other costs besides subgrants are included in the calculation of the ratio (e.g., all other programmatic costs that are not related to specific loans such as developing the CAR's program guidelines, marketing materials, and application packages would be included with the subgrant costs). Therefore, going forward EPA will refer to this requirement as the 50/50 split rule, which can be defined as the requirement to use 1) at least 50% of each open CA's total award amount (EPA funds plus the associated cost share) on loans and eligible programmatic costs associated with those loans, and 2) the other 50% of each open CA's total award amount on all other eligible costs (aka non-loan costs). Compliance with the 50/50 split is per CA, unless the CAR has an approved waiver for Option 1 in OBLR's FY23 RLF Policy Memorandum (see FAQ #11). *Think of it as the ratio of loan to non-loan costs: any cost that is **specific to a loan** can be counted towards the loan portion (e.g., not just the loan principal amount but also costs to comply with federal cross-cutters for that loan project, costs for CAR preparation of an ABCA for that loan project, processing/underwriting costs for that loan, etc) and everything else must be counted toward the non-loan portion.*

Note: CARs are not required to meet the 50/50 split rule "proportionally" when drawing down funds, but are accountable for complying with this requirement by the end of the performance period for the CA. Therefore, 50/50 split waivers are not required during the CA performance period, as long as the minimum 50/50 split can be maintained by the end of the CA. However, CARs should be cautious about awarding too many subgrants without balancing them with loans since it could create a situation where it is very difficult to maintain the 50/50 split by the end of the CA project period. POs must be aware of the CAR's funds relative to the 50/50 split for evaluation of supplemental funding requests and waiver requests (e.g., if a CAR requests a waiver to the subgrant cap, OBLR will consider whether the CAR would continue to meet the 50/50 split as part of its evaluation). In addition, POs must work with the CAR to understand what and how programmatic costs are being associated with the loan portion of the 50/50 split.

Historical note on past changes to this policy: The 50/50 split was established as program policy in OBLR's March 27, 2019, policy memorandum titled "*Brownfields Revolving Loan Fund Policy Revisions.*" The 2019 memorandum brought the policy in line with the terms and conditions of the award and overrode the previous policy established in OBLR's June 24, 2010, memorandum which allowed for a 60/40 split of grant funds between loans and subgrants.

10. Does the 50/50 split rule apply to program income?

No, the 50/50 split rule only applies to the total award amount for the CA, which is EPA funds plus any associated cost share. Therefore, program income should not be included in the calculation of the 50/50 split (either in the loan or non-loan portion of the ratio). In addition, there is no requirement to meet the 50/50 split rule when using only post-closeout program income for eligible expenses under a COA.

11. How is the % of the loan portion calculated in order to confirm it is at least 50%?

The calculation for the % used on loans for each open CA is:

$$\frac{(\text{EPA funds/cost share under that CA used for loans} + \text{eligible programmatic costs associated with those loans})}{\text{Total EPA funds/cost share under that CA}} \times 100$$

The % of the non-loan portion is then 100 minus the % used on loans.

Under Option 1 in OBLR’s FY23 RLF Policy Memorandum, if the CAR has an open non-BIL CA and an open BIL CA and the closing CA does not meet the 50/50 split on its own (i.e., the non-loan portion would be $\geq 50\%$ based on the calculation above), with PO approval the CAR can choose to base the 50/50 split for the remaining open CA on all open CAs under the CAR’s RLF program. With that change, the calculation for the % used on loans for the remaining open CA would be:

$$\frac{(\text{EPA funds/cost share under non-BIL CA used for loans} + \text{eligible programmatic costs associated with those loans}) + (\text{EPA funds under BIL CA used for loans} + \text{eligible programmatic costs associated with those loans})}{(\text{Total EPA funds/cost share under non-BIL CA} + \text{EPA funds under BIL CA})} \times 100$$

Similar to above, the % of the non-loan portion would then be 100 minus the % used on loans. The second calculation above allows for the 50/50 split to be spread across both the non-BIL CA and the BIL CA, which will allow the older CA to close out quicker if the CAR wants to use remaining funds on a subgrant. It is important to keep in mind that if the CAR chooses Option 1 and the PO approves, the CAR’s 50/50 split calculation going forward must continue to be based on this second calculation (e.g., after the non-BIL CA closes out, the 50/50 split calculation for the BIL CA will be based on the second calculation above).

Below is a simple example of the calculations above:

CAR’s non-BIL CA:

- EPA funds + cost share spent on executed loans: \$500,500
- EPA funds + cost share spent on eligible loan-specific programmatic costs: \$80,000
- Total EPA funds awarded under this CA: \$1,000,000
- 20% cost share requirement: \$200,000

First calculation above for % used on loans would be: $[(\$500,500 + \$80,000)/(\$1,000,000 + \$200,000)] \times 100 = 48.38\%$. Therefore, the non-loan portion would be $100 - 48.38 = 51.62\%$ which means this non-BIL CA would not meet the 50/50 split requirement.

If this CAR had also been awarded \$1M in FY23 supplemental funding in a new BIL CA, then with PO approval as outlined in the OBLR’s FY23 RLF Policy Memorandum and applicable T&Cs, the CAR could choose to spend its remaining non-BIL CA funds on subgrants to closeout this non-BIL CA quicker. In that case, the CAR would need to use the second calculation going forward for the BIL CA.

Let’s consider an example that compares the two calculations, assuming all of the \$1M in BIL funds had been spent on loans and eligible loan-related programmatic costs by the end of the BIL CA. The first calculation for % used on loans under the BIL CA for this CAR would be: $(\$1,000,000/\$1,000,000) \times 100 = 100\%$. But under Option 1, the CAR would have to use

the second calculation for % used on loans which would be: $[(\$500,500 + \$80,000 + \$1,000,000)/(\$1,000,000 + \$200,000 + \$1,000,000)] \times 100 = 71.84\%$. These results show that a CAR who uses all BIL money on loans has a lower % used on loans when using the second calculation, compared to the first calculation. This means that a CAR using the second calculation will need to spend more of their BIL funding on loans to meet the 50/50 split. By doing this, the CAR is honoring the 50/50 split across both open CAs or their entire program which is allowed under Option 1.

12. If a CAR requires a subgrantee to contribute funding as a condition for receiving a subgrant, does the subgrantee's contribution count as part of the total amount of the subgrant (for the subgrant cap) and/or as part of the non-loan portion of the CAR's 50/50 split (i.e., ratio of loan costs to non-loan costs)?

It depends on how the type of contribution the CAR requires is received: as a fee or as a direct contribution to the cleanup activities funded via the subgrant.

1. If the contribution is in the form of a direct payment of cash to the CAR as a condition of receiving the subgrant, the contribution is a fee and must be managed by the CAR as program income for a future loan, subgrant, or associated eligible expense. Program income is not included for purposes of the subgrant cap or 50/50 split calculation.
2. If the contribution is in-kind support for eligible expenses for the cleanup under the subgrant, the CAR has two options on how to treat those funds: a) as a portion of the CAR's 20% cost share, or, b) as dollars leveraged.
 - a. If the CAR chooses to count the subgrantee's contribution as part of the CAR's required 20% cost share under the cooperative agreement, then the total amount of the subgrant will equal the amount of federal funds plus the amount of subgrantee's contribution of in-kind support (i.e., the cost share). The CAR must request a waiver if this total exceeds the subgrant cap and the loan to non-loan ratio thresholds in the CAR's T&Cs (e.g., the 50/50 split).
 - b. If the CAR chooses to count the subgrantee's contribution as dollars leveraged, the subgrantee's in-kind support do not count as part of the subgrant for the subgrant cap or against the calculation of the 50/50 split requirements since those are only for EPA funds plus cost share. (Note, the subgrantee's contribution in this instance also does not need to be for eligible expenses under the cooperative agreement.)
 - Note that other Federal funds may be counted as leveraged funds (provided those funds are not used as cost share through authorization in a Federal statute) as long as there is a reasonable connection between the RLF loan or subgrant and the Federally funded activity. For example, if a nonprofit housing development organization receives an RLF subgrant to clean up a site for reuse as affordable housing constructed or renovated with funding provided by HUD, the HUD funding can be counted as leveraged funds. Again, these leveraged funds do not count as part of the subgrant for the subgrant cap or against the calculation of the 50/50 split requirements since those are only for EPA funds plus cost share.
3. If the subgrantee were to voluntarily contribute funds to the CAR, the analysis in #2 applies.

The following example illustrates the three ways the contribution from the subgrantee required by the CAR may be counted in the RLF cooperative agreement: i.) as a fee, ii.) as a part of the 20% RLF cost share, and iii.) as leveraged cleanup funding.

Example:

- A CAR awards a subgrant to an eligible entity that includes \$500,000 of federal funding for eligible cleanup activities, and no additional program income or cost share from the CAR.
- The CAR's RLF T&Cs established a \$500,000 limit of the total award amount per subgrant/site and requires that the CAR maintain a 50/50 split.
- The CAR requires \$5,000 from the subgrant recipient as a condition of receiving the subgrant.
 - i. If the CAR includes \$500,000 in cooperative agreement federal funds in the subgrant and the subgrantee pays the CAR \$5,000, the \$5,000 payment is a fee (i.e., program income that can be used to carry out the cooperative agreement) so the total of the subgrant is \$500,000 and the total counting on the non-loan side of the 50/50 split is \$500,000. Fees are not considered part of the subgrant total so no waiver is required. Fees are also not counted as a leveraged resource.
 - ii. If the subgrantee's \$5,000 is paid directly to the cleanup contractor to partially fund eligible cleanup activities and the CAR wishes to count the subgrantee's contribution as part of the CAR's 20% cost share for the cooperative agreement, then the total for the subgrant for the cap determination is \$505,000 (\$500,000 federal and \$5,000 subgrantee contribution that counts as cost share). The subgrant, therefore, will require a waiver to the \$500,000 subgrant cap. Further the full amount (\$505,000) counts on the non-loan side of the 50/50 split.
 - iii. If the CAR issues a subgrant for \$505,000 (\$500,000 federal and \$5,000 subgrantee contribution) for eligible cleanup activities and does not need or want to count the \$5,000 as part of the 20% cost share for the cooperative agreement, then the \$5,000 in subgrantee funds are counted towards "dollars leveraged for cleanup" and are not included when determining compliance with the subgrant cap or 50/50 split rule. It should be noted that the CAR may still require the contribution of leveraged funds if it is consistent with the CAR's RLF program policies.

13. What if a borrower provides more than the required 20% cost share for an RLF loan project - does that go towards the "loans" side when determining the 50/50 split?

See FAQ #12 regarding whether the extra funds beyond the 20% would be considered program income (e.g., a fee) or leveraged funds. Funds a borrower dedicates to a cleanup beyond those the RLF recipient uses to meet its cost share requirement are considered leveraged funds. Leveraged funds are not included in the calculation for determining compliance with the minimum 50/50 split (i.e., only the total award amount, which is EPA funds and cost share, are included).

14. Do the loan-specific expenses for oversight and loan administration count towards loans when calculating the total amount of funding used for loans?

Yes. Absent an exception to EPA policy, at least 50% of the funds EPA awards directly to the CAR and the associated cost share must be used by the CAR to provide loans for the cleanup of eligible brownfield sites and associated eligible programmatic costs. Since the oversight and loan administration are expenses for making and managing loans, they are associated eligible programmatic costs and count towards the 50% for loans.

15. If a CAR chooses to develop an ABCA for a cleanup that will be the subject of a loan, do those expenses count towards loans when calculating the total amount of funding used for loans?

Yes. Absent an exception to EPA policy, at least 50% of the funds EPA awards directly to the CAR and the associated cost share must be used by the CAR to provide loans for the cleanup of eligible brownfield sites and associated eligible programmatic costs. Since the ABCA would be assistance directly related to the loan, it would be considered associated eligible programmatic costs and count towards the 50% for loans.

16. Can the CAR use RLF grant dollars to conduct activities related to meeting cross-cutting requirements, and if so, do those expenses count towards loans when calculating the total amount of funding used for loans?

Yes. Absent an exception to EPA policy, at least 50% of the funds EPA awards directly to the CAR and the associated cost share must be used by the CAR to provide loans for the cleanup of eligible brownfield sites and associated eligible programmatic costs. Since meeting all cross-cutting requirements would be directly related to the loan, it would be considered associated eligible programmatic costs and count towards the 50% for loans.

17. Does the following budget for a CAR that receives a total award of \$960,000 (\$800,000 direct EPA funding plus \$160,000 cost share) for a new RLF agreement satisfy the criteria that more than 50% of the RLF funds must be used for loans?

- **Establish and manage the RLF for 5 years: \$62,000**
- **Loans: \$475,000**
- **Subgrants & Loan Discounts: \$375,000**
- **Indirect Administrative Costs: \$48,000**

Maybe. To satisfy this requirement, the CAR must spend over 50% of its total budget (federal funding and cost share funds/resources) on loans and associated programmatic expenses. Since the total budget for the cooperative agreement is \$960,000, the recipient needs to award more than \$480,000 of its funding to loans and associated programmatic expenses to satisfy the requirement. It is difficult to tell from above how much of the programmatic expenses are designated for loans but given that the loan amount is close to 50% (\$475K vs \$480K), it is possible that the CAR has satisfied the requirement. The CAR would need to provide the PO with more information on programmatic costs associated with loans to know for sure.

18. If the CAR's older CA exceeds the minimum 50/50 split (e.g., 70% loan costs and 30% non-loan costs), can the CAR request to apply the 50/50 split rule to all open CAs as a whole RLF program, as described in Option 1 of OBLR's FY23 RLF Policy Memorandum?

No. Since the focus of an RLF program needs to be on revolving, a CAR can only take advantage of Option 1 if the older CA will have excessive non-loans costs which would prevent meeting the 50/50 split rule by the end of the CA. The purpose of Option 1 is to allow the oldest CA to closeout more quickly by expending more non-loan costs now, with the understanding that the remaining open CA will expend more loan costs to make up for it.

19. OBLR’s FY23 RLF Policy Memorandum refers to “uncommitted funds” when describing eligibility requirements for a 50/50 split waiver under Option 2. What is the difference between committed funds and uncommitted funds for Option 2?

For the purposes of this requirement, committed funds refers to the non-BIL CA funding designated for:

- Pending loans and subgrants which are defined as loans/subgrants that have been approved through the applicant’s decision process (e.g., board or committee) but have not been awarded with a fully-signed agreement as of the date of the waiver request;
- Unreimbursed costs for a cleanup that is completed or underway through an executed loan or subgrant, which is defined as a loan/subgrant with a fully-signed agreement and award date that precedes the waiver request; and,
- Estimated costs for personnel, travel, contracts, or other programmatic costs necessary to maintain the RLF for the remaining period of performance of the non-BIL CA.
- NOTE: Committed funds do not include potential loans and subgrants that have not been approved through the applicant’s decision process (e.g., board or committee). To count as committed funds, the loan or subgrant must be executed or pending, as defined above.

Uncommitted funds refers to the amount of EPA funds and cost share (if applicable) that is available under the non-BIL CA after deducting the committed balance.

20. If a CAR receives a new RLF grant in FY23 for \$1M in BIL funds, can the CAR execute a \$500K subgrant?

No. Since there is no cost share requirement for BIL funds, if this is the CAR’s only open RLF grant, this could not be done without a 50/50 split waiver under Option 3 since the CAR would not be able to meet the minimum 50/50 split by the end of the CA. That is, the “non-loan” side of the 50/50 split includes not only subgrants, but all other non-loan costs like marketing, program management, etc. Therefore, in this case a \$500K subgrant would cause less than 50% to be available for the “loans” side of the 50/50 split. The CAR and PO must work together to ensure each subgrant award would still allow the CAR to meet the minimum 50/50 split by the end of the CA based on the CA’s total award amount. In other words, even if the CAR hopes to get supplemental funding in the future before the CA closes out, the CAR must meet the 50/50 split based on the CA’s current total award amount. In a small number of cases, OBLR will consider a waiver on a case-by-case basis under Option 3 in OBLR’s FY23 RLF Policy Memorandum.

21. If a CAR wants to take advantage of any of the three options for a 50/50 split waiver or Scenario 4 as described in OBLR’s FY23 RLF Policy Memorandum, which T&Cs must the CAR’s BIL CA and non-BIL CA have?

See the following table:

	BIL CA	Non-BIL CA
50/50 split waiver Option 1	Must have FY23 or later T&Cs.	Must have: <ul style="list-style-type: none"> • FY22 or later T&Cs, or • If have pre-FY22 T&Cs, must add a T&C to the closing CA allowing a waiver of the 50/50 split.
50/50 split waiver Option 2	Must have FY22 T&Cs.	<u>CANNOT</u> have FY23 or later T&Cs. Must have: <ul style="list-style-type: none"> • FY22 T&Cs, or • If have pre-FY22 T&Cs, must add a T&C to the closing CA allowing a waiver of the 50/50 split.
50/50 split waiver Option 3	Must have FY22 or later T&Cs.	Must have FY22 or later T&Cs.
Scenario 4 (paying for programmatic costs for both grants from funding in the older CA to expedite its closeout)	Must have FY23 or later T&Cs.	Must have FY23 or later T&Cs.

22. If a CAR’s non-BIL CA was awarded in 2018 and the CAR received RLF supplemental funding in 2020 and supplemental BIL funding in 2023, how do the FY23 T&Cs apply to the CAR’s RLF program?

This CAR would now have two open CAs – the original 2018 non-BIL CA and a FY23 BIL CA:

- The FY23 T&Cs will only apply to the FY23 supplemental funding in the BIL CA.
- For the non-BIL CA, this response assumes the T&Cs were updated for the FY20 supplemental funding amendment. In that case, the non-BIL CA is operating under FY20 T&Cs so those would be the applicable T&Cs for that CA. The FY20 T&Cs apply to the supplemental funding added in FY20 and any funds that had not been drawn down prior to the date of the FY20 supplemental funding amendment. Additional or revised T&Cs do not apply retroactively to prior expenditures.
- In the future, if those non-BIL T&Cs were updated again due to a no-cost amendment (e.g., project period extension or to take advantage of Option 1 for a 50/50 split waiver), the new T&Cs would apply from the date of the amendment going forward.

23. If a CAR received supplemental BIL funding in FY22 and supplemental BIL funding in FY23, which T&Cs apply to the BIL CA?

If a CAR received supplemental funding in FY22 and FY23, the FY23 supplemental funding would be added to an existing BIL grant. In this case, the FY23 T&Cs would apply from the date of the supplemental funding amendment going forward, to include applying to any FY22 supplemental funding that had not been drawn down as of the date of the supplemental funding amendment. Additional or revised T&Cs do not apply retroactively to prior expenditures.

For example, in the FY23 T&Cs, the subgrant cap applies to the CAR's total award amount (for all open CAs), rather than the individual CA's total award amount. This type of change would now apply to the entire amount of funds in that BIL CA that had not been drawn down as of the amendment award date (i.e., both the remaining FY22 supplemental funds and the FY23 supplemental funds), not just to the FY23 supplemental funds that are added with the amendment. The only exception to this is BABA, since BABA only applies to funding awarded after May 14, 2022 (or February 28, 2023 based on the adjustment period waiver). See FAQ #38 and 39 for more information on BABA.

24. If the CAR plans to use BIL and non-BIL funds from two open RLF grants for a loan, discounted loan, or subgrant, can a single loan or subgrant agreement be used? What if the CAR also wants to use post-closeout program income from their post-closeout grant?

Yes, it is legally permissible for a CAR to use funds from both a BIL grant and a non-BIL grant to finance the same loan or subgrant agreement. The CAR, however, is going to have to develop a system for determining which grant to draw down funds from to reimburse the borrower or subgrantee in order to comply with the allocability requirements in [2 CFR 200.405](#) and to gather information from the borrower/subgrantee on any BIL-specific reporting requirements. Also, combining BIL funds and non-BIL funds in the same loan or subgrant may impact the cost share calculations on the non-BIL RLF grant. Therefore, there are trade-offs regarding which approach is the most viable from a grants management perspective (i.e., making the award under a single loan or subgrant agreement versus having a separate loan or subgrant agreement for each source of funding). Record-keeping that complies with applicable requirements (e.g., [2 CFR 200.302](#), [2 CFR 200.303](#), and [2 CFR 200.305](#)) is needed in either case. As a practical matter, EPA leaves it to the CAR's discretion to decide which is the best method for their RLF program.

Note that a CAR could also choose to combine funds from a post-closeout RLF grant with funds from an open RLF grant(s) into a single agreement for the same site. A post-closeout grant is governed by the terms of a closeout agreement (COA) while an open grant is governed by the terms of a cooperative agreement (CA). However, when funds are combined for the same site, the terms of the CA apply to the entire cleanup project (e.g., Davis-Bacon and other federal cross-cutters).

25. If a CAR chooses to combine BIL and non-BIL funds from two open RLF grants (or funds from an open RLF grant with funds from a post-closeout RLF grant) into a single agreement for a loan, discounted loan, or subgrant, is there particular language that would need to be included in the agreement due to the combined sources of funding?

Yes, as indicated above, the CAR will have to have internal controls to ensure that the funds are drawn down and accounted for properly under both grant agreements.

26. If a CAR chose to combine BIL and non-BIL funds from two open RLF grants into a loan or discounted loan, when one of the open grants closes out, can all program income earned from that loan going forward be deposited in the CAR's post-closeout account?

No. As with drawdowns, the program income has to be accounted for in relation to the amount of funding used from each grant while both grants are open. For example, if the CAR “split-funded” the loan with 45% of the amount of principal being charged to the BIL grant and 55% to the non-BIL grant, the program income earned (i.e., fees, interest, and principal repayments) would also have to be credited on a 45-55 basis to the accounts for each grant, respectively. After one of the open grants closes out (i.e., the CA project period ends), only program income attributable to that grant's portion of the loan could be deposited in the post-close out account.

Note that if post-closeout program income was also used for the loan, it would also need to be accounted for in the split when program income is earned from that loan. For example, if the CAR “split-funded” the loan with 35% of the amount of principal being charged to the BIL grant, 55% to the non-BIL grant, and 10% to the CAR's post-closeout grant, the program income earned (i.e., fees, interest and principal repayments) would also have to be credited on a 35-55-10 basis to the accounts for each grant, respectively.

27. OBLR's FY23 RLF Policy Memorandum says that funds associated with each open RLF grant (i.e., federal funds, cost share, and program income) must be kept in separate accounts. Do they need to be actual separate bank accounts with different account numbers or just tracked separately (e.g., subaccounts)?

Consistent with [2 CFR 200.305\(d\)\(7\)](#) as well as the unique accounting requirements for states under [2 CFR 200.302\(a\)](#) and [200.305\(a\)](#), CARs do not have to establish entirely separate bank accounts for EPA funds. CARs do, however, have to be able to account for EPA funds (including cost share and program income) received, obligated, and expended, and Federal funds must be deposited and maintained in insured accounts whenever possible as required by the regulation. Subaccounts are allowed, as long as the interest earned and all funds for each of the CAR's open and post-closeout RLF grants can be accounted for accurately by the CAR. The intent of the direction in OBLR's FY 23 RLF Policy Memorandum is to remind CARs that they must accurately account for funds separately for multiple open CAs and post-closeout program income governed by a COA (note that if the CAR does not have all PCPI in a single account under the FY22 COA, this could mean a PCPI subaccount for each COA). If the CAR can accurately account for multiple sources of EPA funds (subject to different requirements in the case of PCPI), subaccounts under a single account are acceptable. However, EPA suggests that CARs carefully consider the

advantages of separate bank accounts, as that approach may facilitate more accurate accounting for the RLF funds. Note that the goal is for each CAR eventually to only have two sources of funds for their overall RLF program: a single open CA and PCPI under the FY22 COA (or subsequent COA when the FY22 COA is modified).

28. What is the difference between program income, retained program income, and post-closeout program income?

Program Income (PI):

- Term used for program income earned while the cooperative agreement is open.
- Includes principal repayments, interest earned on outstanding loan principal, interest earned on accounts holding RLF program income not needed for immediate lending, all loan fees and loan-related charges received from borrowers and other income generated from RLF operations including proceeds from the sale, collection, or liquidations of assets acquired through defaults of loans.

Retained Program Income:

- Term used for the amount of undisbursed program income that remains at the end of the performance period of the cooperative agreement.
 - *If the CAR chooses not to have a COA*, it is returned to EPA and deposited to the US Treasury as miscellaneous receipts as required by 31 USC § 3302(b).
 - *If the CAR chooses to proceed with a COA*, retained program income is subject to the COA and combined with program income earned after the cooperative agreement performance period ends.

Post-Closeout Program Income (PCPI):

- Term used for program income earned after the cooperative agreement award period.
- Includes any retained program income available at the end of the cooperative agreement that EPA authorizes the recipient to keep under the terms of a COA.

Remember...

A CA governs the use of program income
and
a COA governs the use of retained and post-closeout program income.

29. What is the difference between open, post-closeout, and closed status for RLF grants?

OPEN	POST-CLOSEOUT	CLOSED
The cooperative agreement is open (i.e., period of performance has not ended).	The cooperative agreement period of performance has ended and...	
	the RLF Grant has accrued or expected program income that has not been expended or returned to EPA (i.e., a COA is active or still needs to be executed).	the RLF Grant has no accrued or expected program income (e.g., loan repayments).

KEY POINT FOR POST-CLOSEOUT VERSUS CLOSED STATUS:
 The remaining program income balance must be \$0, with no expected change, for an RLF Grant to be Closed.

30. If I only have an RLF grant in post-closeout status, can I apply for annual, non-competitive RLF supplemental funding?

No, supplemental funding awards are only made to CARs with an open RLF CA who meet eligibility criteria. To receive additional EPA funding for your RLF program, you would need to apply for a new RLF grant through the RLF competition.

31. I have questions about the FY22 Closeout Agreement (COA) Template and reporting requirements for my RLF grant that is in post-closeout status (i.e., operating under the terms of a COA). Where do I go to get answers?

EPA provided a training webinar on January 12, 2023, which covered many details about the FY22 COA and associated reporting requirements. The slides and recording for this webinar are located on the [Brownfields Program website](#). In addition, EPA developed a [Q&A document](#) for all the questions that were received from CARs during this webinar that should be very helpful. Talk to your EPA project officer if you have any additional questions.

32. I currently have a pre-FY22 COA for my post-closeout grant and I would like to take advantage of the many benefits offered in the FY22 COA Template. How do I do that?

Great! Contact your EPA project officer and they will provide the FY22 COA to you for signature by an authorized official within your organization. You can start using the FY22 COA for your post-closeout grant as soon as both your organization and an authorized EPA official sign the FY22 COA that is specific to your RLF program.

33. What are the different requirements and activities that are allowed under a COA versus under a CA?

The following table provides a crosswalk of what types of RLF funding (federal grant funds, cost share, and different types of program income) can be used for various requirements and activities while the CA is open and after it closes under a COA. The table is based on the

FY22 CA T&Cs and the FY22 COA Template; if the CAR is operating under older T&Cs or an older COA, the table will not be accurate and you should review your current T&Cs and consult with your PO if clarification is needed. In addition, this table is not meant to be all-inclusive (see your individual CA approved workplans, T&Cs, and COA for all requirements and allowable activities).

**Key Requirements or Allowed Activities when Using Different Types of RLF Funding
(based on FY22 T&Cs and FY22 COA)**

RLF Requirements or Allowed Activities when using →	While Cooperative Agreement is Open ¹		After Cooperative Agreement Closes ¹
	Federal Funds + Cost Share or Combination with Program Income	Program Income Only	Post-Closeout Program Income ²
Cleanups completed via loan or subgrant	X	X	X
Direct cleanups (as defined in FY22 COA)			X
Health monitoring of vulnerable populations near sites cleaned up or assessed	X (up to 10% for local governments only)		X
Institutional control and engineering control monitoring to ensure continued protection of public health	X (up to 10% for local governments only)		X
Phase I and II Environmental Site Assessments			X
Area-wide planning for the assessment, cleanup and/or re-use of brownfield sites			X
Cost share for other Brownfields grants		X ³	X ³
Eligible work under the COA at brownfield sites within 100 miles of the geographic boundary described in the scope of work			X
Eligible and allowable programmatic costs	X	X	X
50/50 split rule ⁴	X		
Subgrant limit of \$500,000 per site ⁴	X		
Principal forgiveness limit of \$500,000 or 50% of discounted loan per site ⁴	X		
Use of pre-FY2018 funding based on designation as hazardous substances <u>or</u> petroleum	X		
Use of FY2018 or later funding for both hazardous substances or petroleum	X	X	X
Quarterly reporting to EPA	X	X	
Annual Post-Closeout reporting to EPA			X
Reporting in ACRES	X	X	X
Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS) reporting	X	X	
SF-425 Federal Financial Reporting (FFR)	X	X	
Funds deposited in interest-bearing account ⁵	X	X	X

RLF Requirements or Allowed Activities when using →	While Cooperative Agreement is Open ¹		After Cooperative Agreement Closes ¹
	Federal Funds + Cost Share or Combination with Program Income	Program Income Only	Post-Closeout Program Income ²
Cleanups meet all federal/state/tribal requirements, as applicable, and be protective of human health and the environment	X	X	X
Cleanups conducted through state or tribal response program or in consultation with EPA	X	X	X
Community Involvement	X	X	X
ABCA, CIP, Administrative Record, QAPP	X	X	Eligible use of funds, but not required
Administrative costs limited to 5%	X	X	
Davis-Bacon, ESA, URA, NHPA, MBE/WBE, BABA ⁶	X	X	
Procurement requirements for CARs/subgrantees	X	X	

¹ If the CAR has T&Cs from FY21 or earlier and/or does not have the FY22 COA, consult the CAR's applicable T&Cs and COA since information in this table will not always be accurate for that grant.

² After the performance period for the cooperative agreement ends, retained program income is subject to the COA and gets combined with program income earned after the cooperative agreement performance period ends. The sum is then referred to as post-closeout program income.

³ Only program income generated from interest and fees, not principal repayments.

⁴ On a very limited basis, EPA may approve a waiver for this requirement. Contact your PO for information on the waiver process.

⁵ RLF funds must be kept in an interest-bearing account unique to each cooperative agreement and separate from post-closeout program income governed under a COA unless a state recipient is subject to a different requirement under a Cash Management Improvement Act Agreement with the U.S. Treasury.

⁶BABA applies if the CAR has this requirement in its T&Cs (e.g., FY22 or later T&Cs for both Infrastructure Investment and Jobs Act and regular EPA appropriations).

34. Who is eligible to receive an RLF loan and/or subgrant?

The following table identifies eligible recipients of loans and subgrants from an RLF grant.

Entity	Loan	Subgrant
General purpose unit of local government ¹	X	X
Land clearance authority or other quasi-governmental entity	X	X
Government entity created by a state legislature	X	X
Regional council or group of general-purpose units of local government	X	X

Entity	Loan	Subgrant
Redevelopment agency that is chartered or otherwise sanctioned by a state	X	X
State	X	X
Indian tribe other than in Alaska	X	X
Alaska Native Regional Corporation, Alaska Native Village Corporation, and the Metlakatla Indian community	X	X
Non-Profit Organizations (with or without 501(c)(3) tax exemption)	X	X
Non-Profit Organizations with 501(c)(4) tax exemption that do not lobby ²	X	X
Limited liability corporation or limited partnership comprised of 501(c)(3) non-profits	X	X
Qualified community development entity under Section 45(D)(c)(1) of Internal Revenue Code	X	X
RLF Coalition Member	X	X
CAR (subject to the requirements specified in FAQ #5)	X	
Private for-profit firm or an individual	X	

¹ EPA uses the definition of *Local government* at [2 CFR 200.1](#) for the purpose of determining whether an entity qualifies as a general purpose unit of local government.

² Non-Profit Organizations with 501(c)(4) tax exemption that do lobby are not eligible for loans and subgrants.

35. What are eligible and ineligible uses of RLF funds?

The following table identifies eligible and ineligible uses of RLF funds.

Activity	Eligible Costs	Subject to 5% Administrative Cost Cap	Ineligible Costs
Grant Management			
Direct programmatic costs that are specifically attributable to managing the RLF	X		
Indirect and direct administrative costs that do not exceed 5% cap on administrative funds	X		
Marketing activities and materials for the RLF program (e.g., website development)	X		
Site-specific marketing materials for site redevelopment			X
Attending Brownfields conferences & workshops	X		
Pre-award brownfield competitive application and grant application preparation			X ¹
Site visits including travel	X		
Procuring a Fund Manager, QEP & Counsel	X		
Preparing Quarterly Reports and ACRES reporting	X		
Record retention		X	
Preparing MBE/WBE or Disadvantaged Business Enterprise (DBE) forms	X		
Preparing requests for no cost time extension or waivers		X	
Subawards and Executive Compensation Reporting		X	
Cleanup			
Site Eligibility Determinations, including requesting Property Specific Determinations from EPA	X		
Seeking or preparing petroleum determinations	X		
Establishing & maintaining the Administrative Record	X		
CIPs & public meetings	X		
Public meeting notices and flyers	X		
Cleanup Decision documentation	X		
Required QAPPs	X		
Cleanup planning	X		
Signage required per Terms and Conditions (e.g., BIL-required signage)	X		
Historic preservation reports and activities to support Section 106 requirements	X		
Plaques and signage for historic sites, if necessary to comply with NHPA	X		
Plaques and signage for historic sites			X
Complying/assisting with compliance with the Endangered Species Act and other cross-cutter regulatory requirements	X		
ABCA	X		
Fees for enrolling in and oversight by VCPs	X		
Fees for VCP oversight of environmental site assessment			X
Confirmatory sampling	X		
Additional sampling needed for cleanup plan (for completing delineation only, not initial site characterization)	X		

Activity	Eligible Costs	Subject to 5% Administrative Cost Cap	Ineligible Costs
Phase I and II environmental site assessments			X
Fencing and Site Security	X		
Eligible site cleanup costs	X		
Securing sites in the event of a default	X		
Demolition required to access contamination	X		
Demolition NOT required to access contamination			X
Cleanup completion/closeout documentation	X		
Davis-Bacon compliance requirements	X		
CAR QEP oversight of borrower/subgrantee cleanup	X		
Financial Management			
Developing loan documents	X		
General Financial management system operations		X	
Developing the amortization table for a loan document	X		
Preparing Annual Federal Financial Reports (SF 425)		X	
Preparing ASAP payment requests		X	
Processing borrower and subgrantee contractor invoices (i.e., cleanup contractor invoices) and approving payments	X ²		
Processing and approving payments to CAR's contractor (e.g., QEP) invoices	X ²		
Non-federal audits			X
Staff time preparing documents and reporting RLF activities to Brownfields Board or other decision-making body for decision-making purposes	X		
Preparation of amortization schedules	X		
Maintaining bank account for program income		X	
Cooperative Agreement Closeout (if incurred prior to expiration of the cooperative agreement)			
Preparing Final MBE/WBE Report	X		
Preparing Final FFR		X	
Preparing Final Cooperative Agreement Performance Report (formerly called Final Technical Cooperative Agreement Report)	X		
Final ACRES entries	X		

¹ Note: Brownfields grant application costs, to include costs for preparing supplemental funding requests, are an example of administrative costs, but OBLR made a program policy decision to make them ineligible as direct costs.

² Note: Reviewing and approving invoices may be part of the contract/subaward management process if the reviews are handled by program rather than accounting staff; if handled by accounting staff, these would be administrative costs and subject to the 5% administrative cost cap.

36. What are the roles and responsibilities of a Brownfields RLF team?

The following table provides a summary of some of the typical roles and responsibilities of the primary members of the CAR's RLF team. The composition of the CAR's RLF team may be different depending on how the CAR is implementing the RLF CA. For example, the same person may fill more than one role as long as they are qualified for each role.

Fund Manager	CAR	QEP	CAR's Counsel
<ul style="list-style-type: none"> ▶ Serve as the CAR's financial expert and advisor. ▶ Perform the financial management of the RLF cooperative agreement. ▶ Track all grant funding and program income. ▶ Evaluate the financial aspects of new RLF projects. ▶ Perform loan underwriting. ▶ Disburse funds to borrowers and subgrantees. ▶ Perform loan servicing. ▶ Ensure prudent lending practices are implemented. ▶ Assist with meeting cost share requirement, as applicable. 	<ul style="list-style-type: none"> ▶ Serve as primary contact with EPA. ▶ Coordinate and work with Fund Manager and QEP. ▶ Develop internal program guidelines/documents. ▶ Ensure compliance with grant T&Cs and workplan commitments. ▶ Conduct community involvement activities. ▶ Establish and support the RLF board or committee. ▶ Market the RLF program (can be shared duty with Fund Manager and QEP if part of agreements). ▶ Manage the day-to-day operations of the RLF program. ▶ Select borrowers and subgrantees. ▶ Ensure that borrowers and subgrantees comply with the terms of their agreements. ▶ Ensure agreements between the CAR and borrowers/subgrantees are consistent with the T&Cs. ▶ Fulfill reporting and record keeping requirements. 	<ul style="list-style-type: none"> ▶ Serve as the CAR's environmental expert. ▶ Evaluate cleanup projects that come into the RLF program. ▶ Help CAR understand and navigate the state VCP. ▶ Lead or assist with community involvement activities. ▶ Monitor cleanup activities funded by the RLF. ▶ Ensure cleanups meet state and federal laws and regulations. ▶ Review borrower or subgrantee invoices and assist the CAR in determining if costs are appropriate and eligible. 	<ul style="list-style-type: none"> ▶ Review all loan/subgrant agreements for compliance with state and local laws and RLF T&Cs.

The following table provides a summary of some of the typical roles and responsibilities of the CAR’s borrowers and subgrantees.

Borrower	Subgrantee
<ul style="list-style-type: none"> ▶ Comply with terms outlined in the loan agreement. ▶ Meet MBE/WBE, Davis-Bacon, and other federal requirements applicable to loans. ▶ Ensure federal provisions (e.g., Davis Bacon and MBE/WBE) are included in contracts with cleanup contractors. ▶ Complete cleanup in accordance with tribal or state standards or, if cleanup is not overseen by the state or tribe, in coordination with the CAR who will consult with EPA. ▶ Pay back loan according to loan terms. ▶ Conduct required reporting and record keeping. ▶ Note: Borrowers are not subject to the competitive procurement requirements in 2 CFR Part 200 or the consultant fee cap in 2 CFR 1500.10. 	<ul style="list-style-type: none"> ▶ Comply with terms outlined in the subgrant agreement and in provisions of 2 CFR Part 200 and 2 CFR Part 1500 that “flow down” to subgrantees. ▶ Hire cleanup contractor using competitive procurement guidelines for projects over the 2 CFR 200.1 Micro-purchase threshold (typically \$10,000 for most subgrantees but subject to adjustment for inflation), or small-purchase procedures for projects under the 2 CFR 200.1 Simplified acquisition threshold (currently \$250,000 but subject to adjustment for inflation). EPA provides detailed information on complying with competitive procurement requirements in the Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements. ▶ Meet MBE/WBE, Davis-Bacon, and other federal requirements. ▶ Ensure federal provisions are included in contracts with cleanup contractors. These provisions can be found at Appendix II of the Uniform Grant Guidance, Appendix A to 40 CFR Part 33, and applicable T&Cs (e.g., Davis Bacon). ▶ Complete cleanup in accordance with state or tribal standards as applicable and/or EPA standards. ▶ Conduct required reporting and record keeping.

37. If a CAR receives a supplemental funding award as a new BIL grant, does the CAR have to bid for a QEP again?

We would need more information about the RLF recipient and, if the recipient is not a state government, about the existing contract between the recipient and the QEP. States follow their own procurement policies and procedures for competition of contracts as provided in 2 CFR 200.317.

Assuming the recipient is not a state, then the answer depends on the scope and duration of the recipient's contract with the QEP. The work the QEP performs under the supplemental funding must fall under the scope of work for the contract the recipient awarded competitively. That part of the test will probably be met. However, although EPA encourages recipients to enter into flexible contracts that have multi-year option periods, if the contract is time limited then the recipient must re-compete the work once the term of the contract ends. Also, in order to ensure that the prices that the QEP is charging are consistent with current market rates, pages 12 and 13 from the [Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements](#) advise recipients to re-compete contracts for professional services at least every 5 years.

Whether the source of supplemental funding is BIL versus non-BIL (i.e., regular appropriations), or the supplemental funding award is made as a new grant versus an amendment does not affect the requirement to re-bid the QEP contract for the CAR's RLF.

38. Does BABA apply to RLF funding?

It depends. Refer to EPA FAQs that are specific to [BABA](#) for more information. You may contact your PO if you need additional information.

39. If 1) a CAR's RLF CA was covered by EPA's Temporary Adjustment Period Waiver for Brownfields due to the date of CA award and 2) the CAR's T&Cs are updated in an amendment (e.g., either a partial update by adding specific new terms or a complete update to FY22 and later T&Cs or the addition of supplemental funding), does that make the BABA waiver no longer applicable?

It depends. If the amendment is a no-cost amendment, then the BABA waiver would still apply to all funds under the grant, regardless of whether the update to the T&Cs is a partial update or a complete update to the latest model CA T&Cs. However, if the amendment adds EPA funds to the CA (e.g., a supplemental funding award), then the BABA requirements would apply to the use of those added funds, but not the previous funds in the grant prior to the amendment. The only exception to this is if the supplemental funding was used for a cleanup project where the initial loan or subgrant was made during the Temporary Adjustment Period Waiver. In that case, BABA would not apply to the supplemental funding used to complete the cleanup project.

40. How does a CAR comply with the Federal Funding Accountability and Transparency Act (FFATA)?

EPA's [General Terms and Conditions](#) provide information on complying with FFATA requirements for "Reporting Subawards and Executive Compensation" as required by [2 CFR Part 170](#). Subawards include both loans and subgrants that the CAR makes for the purposes of these requirements. The FFATA Subaward Reporting System (FSRS) is the reporting tool CARs use to capture and report required subaward and executive compensation data regarding their first-tier subawards. The record of this reporting is often reviewed as part of a Grant Specialist baseline report, and the report is submitted to <http://www.fsr.gov> when the

loan or subgrant is executed. CARs can reach out to their PO should they have any questions about these requirements.

41. What is intergovernmental review (IR) and does a CAR have to comply with IR procedures?

Yes. Executive Order 12372 was enacted on July 14, 1982, to foster intergovernmental partnership with state and local governments by relying on their review of proposed federal assistance programs such as the RLF. It provides opportunities for consultation by elected officials of those state and local governments that would be directly affected by the proposed financial assistance. Information regarding the implementation of Executive Order 12372 can be found in [40 CFR Part 29](#). EPA provides a list of EPA financial assistance programs and activities subject to IR; this is referred to as the IR List which is available at the following link: [EPA Financial Assistance Programs Subject to Executive Order 12372 and Section 204 of the Demonstration Cities and Metropolitan Development Act and Section 401 of the Intergovernmental Cooperation Act](#). Applications for Brownfields RLF cooperative agreements are subject to IR (per the IR List) for both competitive awards and non-competitive awards if the supplemental funding is awarded as a new grant.

For competitive programs, EPA's general policy is to only require IR for applications selected for funding consideration. In accordance with Executive Order 12372, EPA encourages successful applicants to contact their State Single Point of Contact (SPOC) or IR Office early so that the required IR process may begin immediately upon selection by EPA. As of June 2022, most states do not have SPOCs, and only California and Utah selected EPA grant programs for IR. Specifically, the State of California SPOC has selected all Brownfields RLF applications for IR (the California SPOC reviews all applications for Federal financial assistance on the basis of State law), and Utah's SPOC has selected applications from Utah state agencies for Brownfields RLF funding for IR. If other states select Brownfields RLFs for Intergovernmental Review, EPA will update the IR List.

If the state does not have an SPOC, or the SPOC has chosen not to review RLF applications, the successful applicant must provide notice of the proposed agreement directly to the affected state, area-wide, regional, and local entities. RLF applications are subject to § 204 of the Demonstration Cities and Metropolitan Act of 1966, which requires applicants to allow area-wide agencies a 60-day opportunity for review and comment (see [40 CFR 29.8\(c\)](#)). EPA may not award an agreement until the applicant has demonstrated that the intergovernmental review and comment period is complete. Therefore, selected applicants should factor this time frame into their planning.

42. If a CAR receives a supplemental funding award as a new grant, is IR by the state required?

Unless the new grant is for an RLF in California or the supplemental funding is going to a Utah state agency, there is no requirement for the CAR to send the application to a State SPOC for a 60-day opportunity for review and comment prior to award of the new RLF grant. However, for all other states that do not have an SPOC, or the SPOC has chosen not to

review RLF applications, the CAR must provide notice of proposed RLF projects (if known) directly to the affected state, area-wide, regional, and local entities with a 60-day opportunity for review and comment. Successful applicants comply with IR requirements prior to award of the original grant and/or supplemental funding.

43. Does EPA have a definition of an “interest-bearing account” or have a list of what qualifies as an interest-bearing account?

Grant regulations at 2 CFR § 200.305(b)(8), as well as terms and conditions for Brownfield cooperative agreements and the FY22 Revolving Loan Fund (RLF) Closeout Agreement template, require that all funds held by non-state recipients be kept in an interest-bearing account if certain requirements described in that regulation are met [note that state recipients are subject to Treasury requirements for depositing grant funds as provided in 2 CFR § 200.305(a)]. This includes EPA funds and if applicable, cost share, program income, and post-closeout program income. However, what qualifies as an interest-bearing account is not clearly defined in 2 CFR § 200.1 or 2 CFR § 200.305(b)(8). For the purposes of Brownfield Grants, EPA considers an interest-bearing account to be any financial arrangement in which funds are deposited in an insured account whenever possible [2 CFR § 200.305(b)(7)(ii)] that generates interest rather than dividends. For most grants, the non-state grant recipient will choose to place the funds in a bank account or some type of insured account that consistently earns positive gains, not losses, and is not a speculative investment (e.g., a high-interest savings account or a Certificate of Deposit could be appropriate).

44. If funds from an open RLF Grant were used for an ABCA, how should that be reported in ACRES?

The ACRES Property Profile Form Instructions state for “open RLF Grants, only planning and assessment activities funded through non-EPA sources should be entered under Assessment Activities.” This means an ABCA paid for with EPA funds, cost share, and/or program income under an open RLF grant should not be reported under Assessment Activities in ACRES.

In general, there are two scenarios where EPA funds, cost share, and/or program income could be used for an ABCA under an open RLF Grant. For either scenario, the ABCA should be reported as explained below:

- Funds for the ABCA were part of the executed loan/subgrant: If EPA funds, cost share, and/or program income were used for the ABCA, include the ABCA costs in the loan/subgrant amount in ACRES (as applicable, it should be entered as EPA funds, cost share, and/or program income). No specific identification/documentation of the ABCA is needed in ACRES. In other words, the funds would be reported under the cleanup loan/subgrant and nothing would be reported under Assessment Activities in ACRES. *Note:*

- *If the CAR wanted to use EPA funds, cost share, and/or program income for the ABCA in a loan but did not want to require the return of the funds, they could execute a discounted loan where the amount of the ABCA was forgiven principal.*
- CAR paid for the ABCA prior to the loan/subgrant's execution (and those funds were not later included in the executed loan/subgrant agreement): The costs for the ABCA are eligible (i.e., cleanup planning), but they would be considered programmatic costs and do not need to be reported in ACRES. That is, the Property Profile Form in ACRES is not meant to account for all grant dollars spent (e.g., if the CAR spends funds on marketing or NHPA or ESA requirements related to a loan or subgrant, those programmatic costs are not reported in ACRES). Instead, the CAR should document the expenditure of RLF funds for the ABCA in their quarterly report.

Note:

- *Open RLF Grants: While ABCAs completed under open RLF grants are not reported site specifically in ACRES, they are still required as part of the assessment/cleanup process and as such should be included in the quarterly and final performance reports and submitted to EPA, if required in the workplan or region-specific award conditions.*
- *Post-Closeout RLF Grants: When a CAR conducts assessment activities under a closeout agreement (e.g., for an ESA or ABCA), those funds should be reported in ACRES using the dropdown option for PCPI under Assessment Activities.*