

**Minutes of the June 28, 2011
Executive Board Meeting of the
Indiana 15 Regional Planning Commission**

CALL TO ORDER

Chair Lawrence Vollmer called the meeting to order at 6:30 p.m.

ROLL CALL

Secretary Barbara Gilliatt performed roll call, ten members were present. Also in attendance were Lisa Gehlhausen, Tom Mosley and Elliot Englert of the Commission's staff and member Larry Wehr.

APPROVAL OF MINUTES AND AGENDA

The Minutes of the April 26, 2011 Executive Board Meeting were presented by Chair Vollmer for approval. Pat Ramsey made a motion to approve the minutes as presented and Mike Ellis seconded the motion. Motion carried.

ADDITION TO THE AGENDA

None to report.

TREASURER'S REPORT

Treasurer Beverly Schulthise reported that as of June 28, 2011, the closing cash balance was \$374,270.63 which includes the \$10,000.00 CD. Treasurer Schulthise reported the outstanding invoices at \$135,021.26. Ms. Lisa Gehlhausen mentioned to the board that the \$10,000.00 CD will be maturing on July 6, 2011. The interest rate is 2.98%. Ms. Gehlhausen asked the board which step they want to take. Ms. Gehlhausen reminded the board of getting some estimates of the building improvements yet to be completed in 2011. After some discussion as far as the rates at this time, Alan Cassidy made a motion to check the interest rates and seconded by Vice-Chair Paul Lake. Motion carried. With no further questions or discussion, John Stutzman made a motion to approve the Treasurer's Report and Mike Ellis seconded the motion. Motion carried.

SPECIAL SPEAKER

Ms. Gehlhausen introduced Ms. Deborah Orr, Region 5 Brownfield's Coordinator, with the Environmental Protection Agency (EPA). Ms. Gehlhausen recalled to the board the EPA Brownfield grant that the Commission received that consists of \$200,000 hazard assessment and \$200,000 petroleum based. Ms. Orr's agency is where these funds came from. The success of this program earned Indiana 15 an award. This assessment grant will come to a close this October, so we are left wondering what is next for the advancement of Brownfield's assessment, cleanup and redevelopment. Ms. Gehlhausen indicated that since the last meeting some questions about Revolving Loan Funds were answered and we asked Deborah to give a presentation on Revolving Loan Fund Grant Opportunity (Ms. Orr's presentation and Michelle Oertel's answers to questions are attached to the end of these minutes).

Ms. Orr started with her presentation with background information, in which Indiana is one of the six states in the EPA Region 5 office. She stated that Indiana 15 Regional Planning Commission was one of the first regional planning organizations to utilize the assessment grant opportunity. With this grant coming to a close and trying to move forward, the Revolving Loan Fund Grant opportunity may be a good next step. Ms. Orr indicated that the Brownfield's office is in the same office as Superfund. Brownfield's differ from superfund in that they do not deal with emergency situations. She stated that groundwater protection is a major point for Brownfield's remediation.

Ms. Orr clarified about this opportunity being a grant designed to give money to a community in which they can capitalize on, and then running a loan fund. In order to see if we should apply for this opportunity we would have to ask ourselves if there is enough money in our regional communities in order to fund all of the environmental cleanup sites. She stated that applicants typically have to find the problems and determine that there is a fit with the RLF program and have experience in environmental cleanup. Under this program EPA gives you money, and you loan it to someone that will do the cleanup. The grantee then is responsible for making sure the cleanup happens. Technical assistance can be paid for with this money. The applicant has to have a champion who wants to oversee the projects. Applying for the grant is done in the same way as the assessment grants by responding to Request for Proposals and if selected, a Cooperative Agreement is negotiated. Guidelines are written into the RLF program that must be followed. Loan terms are up to the applicant, but must be within the program requirements, costs and timelines. After loan monies are drawn down a closeout agreement will be negotiated with EPA.

Ms. Orr continued that there is a great deal of responsibility for the grantee concerning laws, the environment, human health, and potential borrowers' compliance with the program. Ms. Orr went over requirements for RLF program which includes 20% cost share (other requirements are included in her presentation attached to the end of the minutes). The RLF process includes several approved plans and public documentation, authorization by EPA or state, the cleanup, and final reports.

Barbara Gilliatt asked a question about the applicability the old Methodius Church in Paoli for a restoration project through the RLF program. Ms. Orr stated that historic building preservation would have to overcome certain challenges in order to qualify.

Ms. Orr went on to say that EPA project officers will be assigned to work with recipients to affirm eligibility, review required documents pertaining to the clean up, loan documents, and subgrant agreements.

A question was brought up if prevailing wages apply as contractors make bids. Ms. Orr indicated that this is correct and they help with documents for hiring environmental consultants. Ms. Gehlhausen added that Davis-Bacon wage rates applies to many current projects, and she indicated familiarity with this requirement. Thomas Mosley stated that because we would be working with federal funds the act applies, where Ms. Orr confirmed that this applies to construction projects.

Mr. Mosley asked if Project Management is an eligible cost. Ms. Orr said that better termed Program Management would be eligible costs.

Ms. Gehlhausen asked what happens if there is a financial default on the loan. Ms. Orr indicated that charges would not exceed the cost of doing business. EPA is not looking to hold you liable for such faults. She added that private entities can be borrowers. Also, having a loan officer on the committee is a good strategy to help with the financial details.

Ms. Gehlhausen concluded that the application is due Mid October and in the meantime the board will have to decide if this opportunity is a good fit for the commission.

DIRECTOR'S REPORT

Chair Vollmer turned the meeting over to Ms. Gehlhausen for the Director's Report. Ms. Gehlhausen reported the following:

- **Community Focus Funds (CFFs).** Ms. Gehlhausen reported to the board that the first round of CFFs. Six applications were submitted with two funded. Those being: Marengo Fire Truck and the Jasper Sewer project. The award ceremony will be held in July at the Statehouse.
- **Community Development Block Grants Training.** Ms. Gehlhausen mentioned the Community Development Block Grant program is requiring grant administrators to attend new training and certification sessions. Nathan, Mike and herself will be traveling to Indianapolis twice a month to go through this new training. We are looking forward to this improved training. They have changed the program quite a bit.
- **Assistance to Firefighter's Grant (AFG).** Ms. Gehlhausen reported that three of the staff has gone through the Assistance to Firefighter's grant training. The Assistance to Firefighter's grant provided the training. Ms. Gehlhausen ask the members if they have any fire departments that need any equipment, turn out gear or anything like that, should get with herself, Tom Mosley or Elliot Englert. The applications date has not been set yet but will be coming up soon. The program usually has a five percent (5%) match. Winslow just received turn out gear and St. Meinrad received a brush truck that we helped last year.

For the first time this year the Assistance to Firefighter's Grant move ambulances to a high priority. If you have an ambulance service in your county that is not affiliated with a hospital, they have to be a non-affiliated your county may qualify. Assistance to Firefighter's will not pay to equip the ambulance with supplies, but they will fund ambulances now. Spencer County Ambulance Service has received funding. They have an ambulance service but no hospital in the county. Ms. Gehlhausen stated the community should speak with their EMS to see if they are affiliated with the hospital to determine if they can qualify for this program. We do not know the due date but it could be announced any time.

- **Community Development Block Grants Funds.** Ms. Gehlhausen mentioned there are quite a few communities going after Community Development Block Grant funds this round: 1) Birdseye Old School demolition, 2) Orleans wastewater, 3) Crawford County Blue River water, 4) Huntingburg water, 5) Rockport combined sewer, 6) Troy wastewater, 7) Spurgeon wastewater, 8) St. Meinrad water, 9) Paoli stormwater, 10) Holland sewer, 11) Petersburg sewer, 12) Southeast Orange County fire truck and 13) Ferdinand Wollemann House. We are going to be very busy with the proposals being due on July 22 with the applications due on September 30. They compete against each other by category. So the water and sewer projects will compete against each other, the fire trucks will compete against each other, the historic preservation will compete against each other. So when we have that many, yes some will compete with each other, not only here in our district but among the State. We do know the funds are being cut by approximate seventeen percent (17%) from what they were a year ago.

- **Brownfield's.** Ms. Gehlhausen mentioned that Spencer County United Energy was recently approved for an EPA grant to cleanup Parcel A.

Ms. Gehlhausen stated Mr. Tom Mosley was going to retire on June 30 of this year. Tom was successful in getting the United Energy cleanup grant approved. We did hire Elliot Englert to take over Tom's duties and Tom has agreed, if the board approves to stay on for two days a week, sixteen hours per week and semi-retire with no benefits. Tom's current rate per hour is \$16.72. Ms. Gehlhausen asked for board approval to keep Tom on the payroll at sixteen hours per week with no benefits. This will help train Elliot Englert as well and will be a tremendous help to the rest of the staff. Ms. Gehlhausen introduced Elliot Englert to the board. Ms. Gehlhausen stated Tom has approximately 50 hours of vacation time and will remain on pay status for part of July until those hours are exhausted. After the 4th of July, he will start his two days. Mike Ellis made a motion to approve Tom Mosley's part-time basis of sixteen hours per week with no benefits for the period starting July 1, 2011 through June 30, 2012 and seconded by Vice-Chair Lake. Motion carried.

OLD BUSINESS

None.

NEW BUSINESS

Resolutions for Approval:

Treasurer Schulthise made a motion to group the following resolutions and was seconded by Pat Ramsey. Motion carried. After Ms. Gehlhausen gave a brief description of each resolution, a motion to approve the resolutions was made by Alan Cassidy and seconded by Mike Ellis. Motion carried.

- **Resolution 2011-07** authorizing approval of the 2011 Comprehensive Economic Development Strategy (CEDS) Annual Report. The report shows performance from July 1, 2010 to June 30, 2011. The report is available for review and is not yet completed due to not getting the priority of projects back from some of the communities. The annual report will be submitted within one week. The five year CEDS will be due in 2013.
- **Resolution 2011-08** authorizing approval of the commitment of matching funds of \$10,140.60 for the INDOT Rural Transportation Planning Grant in grant funds of \$45,627.40. Traffic counts and base maps for English and Orleans will be prepared.
- **Resolution 2011-09** authorizing approval to take off within the fixed asset inventory a HP Laserjet 4M Printer due to non-repairable parts. This printer was traded-in with no value towards the purchase of a Kyocera FS-1370DN printer at a cost of \$425.00.

Contracts for Approval:

Pat Ramsey made a motion to group the following contracts and was seconded by Treasurer Schulthise. Motion carried. After Ms. Gehlhausen gave a brief description of each contract, a motion to approve the contracts was made by Fran Lewis and seconded by Treasurer Schulthise. Motion carried.

- INDOT Rural Transportation Planning Grant for the period July 1, 2011 through June 30, 2012; sum of \$45,627.40 with matching funds of \$10,140.60.
- Cannelton levee system analysis (DR2-09-203); sum of \$5,200.00
- Dale water study (PL-07-012); sum of \$5,000.00

ADJOURN

Ms. Gehlhausen stated the next scheduled board meeting will be Tuesday, July 26 at 6:30 p.m. There being no further business to come before the Executive Board, a motion was made by Mike Ellis and seconded by Pat Ramsey to adjourn the meeting at 7:32 p.m. Motion carried.

Respectfully submitted,

Barbara A. Gilliatt, Secretary

*Indiana 15 Commission Board June 28, 2011 meeting
Presentation on Revolving Loan Fund (RLF) Grant Opportunity*

Deborah Orr

Region 5, Brownfields Coordinator

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Who should apply for a grant?

Applicant has a problem that RLF funds can address;
Applicant has defined the problems and determined a fit for the funding;
Applicant has some experience that will ensure success; and
Applicant has a champion and has capable staff.

How do I apply?

Applicant responds to request for proposal that generally appear in the federal register and EPA web site in August.
This is a national competition for funds where the best proposals are selected for funding.
Applicant is notified in early Spring and funds are made available via a cooperative agreement in September.
Once funded, applicant is eligible for supplemental RLF funding as they become available.

What is an RLF Program?

Grant funds are provided to applicant to establish a loan program for local governments, private parties & not for profits within grantee's jurisdiction;
Typically, provides loans to cover gap between institutional lender and borrower's equity, BUT
Applicant designs a RLF program that fit the needs and market of the area to be served;
Minimum of 60% of award must be used for loans and up to 40% can be used for direct subgrants to units of gov't and non-profits; maximum is \$200K per site.

What has Region 5 learned?

These are real estate transactions/ redevelopment projects that happen to have an environmental cleanup component.
The end use is driving the cleanup and
if not for an end use, cleanup would
not likely occur.

Cleanup Context – Are there Strings Attached?

Grantee is responsible for ensuring compliance with all applicable federal and state laws/requirements and that cleanups protect human health and environment.

It is essential that the RLF grantee and potential borrowers have an understanding of the requirements, costs and timelines associated with the RLF program.

What are the RLF Program Requirements?

20% cost share requirement—can be in the form of \$\$, labor, materials and services, but must be for an eligible activity;
A vision or idea and capability to implement;
Site that meet EPA's definition of a Brownfield:

real property, the expansion, redevelopment or
reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or
contaminant.

RLF Program Requirements-Cont.

Borrower must be eligible to receive RLF funds for the site. Specifically, the borrower:

- Cannot be a potentially responsible party under Section 107 of the Superfund Law,
- Must use the funds for eligible activities, and
- Must either own the site or have access to the site in order to conduct the cleanup.

RLF Program Requirements-Cont.

Cleanup activities must be eligible and can include:

- Installing site control measures, e.g. fencing
- Soil removal and disposal, including bringing in
fill to restore grade
- Cleanup planning, e.g., preparing cleanup plans, design documents, bid specs, etc.
- Capping contaminated soils
- Removal of drums, tanks & other bulk containers

RLF Program Requirements-Cont.

Additional eligible cleanup activities

- Abatement of asbestos and lead-based paint
- Demolition, if integral to the cleanup
- Oversight of cleanup activities

- Treatment of contaminated soil/groundwater
- Cleanup verification sampling
- Preparation of closure report

RLF Funds Cannot be Used for

Property acquisition

Redevelopment activities

Environmental assessment – no Phase I or Phase II activities

Reimbursement for costs already incurred

What are Federal Crosscutters?

These are requirements of applicable federal laws and Executive Orders. Several significant ones are:

Davis-Bacon Act (prevailing wage rates for construction, repair or alteration contracts)

National Historic Preservation Act (If building >50 yrs old, should talk to your project officer and contact State Historic Preservation Office).

What is the Process?

Assuming all eligibility requirements have been met, these are typical milestones for RLFs.

- An approved cleanup plan by the State or EPA, preferably the State
- Community Involvement Plan (CIP)
- Analysis of Brownfield Cleanup Alternatives (ABCA)
- Quality Assurance Requirements
- Establish repository of site-related documents
- Public comment period on the proposed cleanup

The Process – Cont.

- Grantee issues Decision Document authorizing cleanup
- Conduct the cleanup
- Prepare closure report
- Make sure Property Profile Form is entered into ACRES

Where does the loan fit in? The approved loan document can be executed between the grantee and the borrower at any time during the process BUT cleanup cannot begin until Decision Memo is issued by RLF grantee.

What is the Project Officer's Role?

To work in partnership with the recipient, and if requested, the borrower, to ensure that those involved in the transaction understand Federal requirements and the process so that the end results are successful. EPA will:

- Affirm site eligibility for haz sub sites---States will make determinations for petroleum sites;
- Review required documents; ABCA, Community Involvement Plan, etc.;
- Review loan documents and subgrant agreements, and
- **ANSWER QUESTIONS.**

Questions?

**Questions about the Environmental Protection Agency's Revolving Loan Fund Grant
Opportunity
Answers from Michelle Oertel, Indiana Brownfields Program**

1). What are the terms of the loan?

EPA doesn't care about loan terms; the RLF grantee can set its own terms and guidelines (e.g., we have flexible RLF loan terms, but are generally set at 0-3% interest for max. 20 years)

2). Any grant funds for clean-up other than this fund?

EPA Cleanup Grant funds, but of course that \$ doesn't revolve and allow n EPA grantee to capitalize on funding for the future.

3). Do we need EPA approval for every loan, or grant?

Yes. EPA does all eligibility determinations for hazardous substances loans/subgrants (State does them for petroleum); that is the key approval before EPA will review anything else. And EPA would review/approve a template loan agreement at a minimum, and possibly all borrower-specific loan agreements. EPA approvals are built into the whole loan process-- some paperwork/activities require EPA approval, but not all; for others, EPA might just want a courtesy copy of a document (e.g., Remediation Work Plan, Decision Memo).

4). Who are eligible for loans, cities/towns, counties – private citizens?

Generally, all public/private entities could be eligible, depending on RP issues of course. But unlike a lot of other funding, private entities can apply directly as borrowers of RLF loan funding.

5). What happens if a city/town defaults on loan?

I might need to get back w/you on this-- in reading through one of our latest loan agreements, I'm not finding an obvious penalty.

6). Are cities/towns eligible for loan/grant if they are the responsible party?

No, unless they qualified for a liability exemption, in which case then they wouldn't be considered an RP.

7). What happens to unspent/repaid funds at the end of the project period?

There might be two different questions here—unobligated vs. unspent vs. repaid. Any leftover RLF funds would likely have to be returned to EPA, which should be avoided. The RLF grantee could ask EPA for an extension, or maybe multiple, which is recommended if the funding needs are there and expending \$ is imminent. Having \$ obligated at the end of the project period isn't good enough; RLF-funded activities have to have been completed by the end of the project period (though this might be an EPA Project Officer-specific interpretation of the guidelines). But there's a grace period for draws and official closeout after the project period concludes.

8). What would a typical borrower provide as securities/guarantees?

Units of government could provide TIF, EDIT, CDBG funds, sewage works revenue bonds, for example. And for private borrowers, we require a Letter of Credit.

9). What are common criteria used to make loan decisions when the goal is environmental more than financial?

The goal should be economic such that redevelopment/reuse (including green space/recreational) is pretty certain but for having to address/cleanup environmental issues and needing the \$ to do so. Redevelopment plans certainly change and don't have to be set in stone, but we like to see a success waiting in the wings! However, since our RLF loan funding is first come first served and not competitive in the sense of having rounds of funding, we wouldn't necessarily not approve a loan (everything else being equal) if a redevelopment plan wasn't set in stone.

10). Any other information would be appreciated.

Ms. Oertel's suggestions for borrowers:

- ***Decent assessment work/delineation completed prior to receiving a loan application is important, esp. for being able to better determine cleanup costs/needs.***
- ***Site ownership/access and RP issues should be worked out ahead of a loan application.***
- ***Repayment source(s) should be identified.***
- ***Bond counsel should be retained.***
- ***Environmental consulting firm should be retained.***

Ms. Oertel's suggestions for a RLF grantee:

- ***RLF is excellent initiative to capitalize \$ and sustain a program.***
- ***RLF\$ is administratively heavy, and staff or contractors w/different strengths/disciplines is helpful/necessary (e.g., financial/legal/technical minds).***
- ***RLF grantees have the advantage of being able to compete for additional monies within Region 5 states with a smaller applicant pool, outside of the nationally competitive fall grant round.***

More information from Ms. Oertel about a borrower defaulting on a loan....

Since we've never had a borrower default, not sure exactly what would happen-- but our various loan agreements over the years have had different provisions re: events of default, and it would also probably depend on the collateral/repayment source (e.g., tax revenue vs Letter of Credit) and type of borrower (public vs private borrower). Also note that whatever provisions/authorities we the State have regarding a defaulted loan would be different than what IN 15 as a RPC might have.

For example, with our most recent loan agreement where the user/utility rates were pledged as repayment, the bond says that the owner of the bond (which is IFA) has all of the "rights and remedies" provided by law (specifically IC 13-19-5, which is our statute), including the ability to charge and collect rates in the amount necessary to repay the debt. So you might

want to check the resolutions/statutes that govern your RPC to see what authorities/rights are available to you in that type of situation.

As I mentioned at the end of my note below regarding the different types of staff, it would be a good idea for IN 15 to hire/contract with an attorney and/or loan portfolio manager to help you through the various legal and financial issues, including upfront financial due diligence, papering the debt. the correct way, etc. should IN 15 be awarded an RLF grant. When EPA reviews RLF applications, it's looking to make sure a qualified team is in place to manage the RLF grant and any loans and/or subgrants that are awarded.

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