



Niagara County, New York Brownfields Cleanup Revolving Loan Fund



Loan Program Information






Revised June 2023

ASSISTANCE FOR BROWNFIELD SITES

The goal of the Niagara County Brownfield Development Corporation (NCBDC) Brownfields Cleanup Revolving Loan Fund (BCRLF) is to ensure that contaminated sites in Niagara County are remediated and reused. Oftentimes developers are unable to secure financing for environmental remediation which prevents a property from being reused. The BCRLF is capitalized with funding from the United States Environmental Protection Agency (EPA) and can be a key component of project financing.

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

Brownfields can exist at a variety of sites including:

-  Former industrial facilities
-  Abandoned commercial properties
-  Closed schools
-  Junk yards and auto repair shops
-  Other sites with contamination

SITE ELIGIBILITY

Eligible sites include:







- ✓ Sites contaminated by hazardous substances (ex. metals, PCBs, asbestos, lead-based paint, radiological materials, etc.) and/or petroleum;
- ✓ Sites at which Phase I and II Environmental Site Assessments have been completed consistent with ASTM standards;
- ✓ Sites approved by EPA Region 2 as meeting federal eligibility requirements; and
- ✓ Sites accepted in the New York State Brownfields Cleanup Program (BCP), unless the project includes only contamination not eligible for the BCP.

Ineligible brownfield sites are:

- ✗ Sites listed or proposed for listing on the National Priorities List;
- ✗ Sites subject to a unilateral administrative order, court order, administrative order on consent, or judicial consent decree issued or entered into by parties under CERCLA; or
- ✗ Sites subject to the jurisdiction, custody, or control of the U.S. government.

ELIGIBLE BORROWERS

Eligible borrowers must meet all of the following criteria:

-  Borrower is the site owner or has site control;
-  Borrower acquired property after the time of contamination, has not caused, contributed to, permitted or exacerbated the release of hazardous substances on or emanating from the property and is not potentially liable under federal CERCLA regulations;
-  Borrower performed “all appropriate inquiry” before acquiring the property (i.e. Phase I ESA within 180 days prior to property purchase);
-  Borrower has not been suspended, debarred or declared ineligible for federal financial assistance programs;
-  Borrower is authorized to incur debt and enter into legally binding agreements; and
-  Borrower is financially sound.

WHAT CAN LOAN FUNDS PAY FOR?

Loan funds can only be used for eligible cleanup costs as designated by EPA. Specific eligible costs include:

1. Costs associated with removing, mitigating, or preventing the release or threat of release of a hazardous substance, pollutant, contaminant, or controlled substance into the environment including:
 - a. Fences, warning signs, or other security or site control precautions;
 - b. Drainage control;
 - c. Stabilization of berms, dikes, or impoundments; or drainage/closing lagoons;
 - d. Capping of contaminated soils;
 - e. Using chemicals and other materials to retard the spread of the contaminant release or mitigate its effects;
 - f. Excavation, consolidation or removal of contaminated soils;
 - g. Removal of drums, barrels, tanks or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants; and
 - h. Containment, treatment, disposal or incineration of hazardous materials.
2. Costs associated with removal activities, including asbestos abatement, lead-based paint removal, demolition and/or site preparation activities that are part of site cleanup.
3. Site monitoring costs, including sampling and analysis that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup.

4. Costs associated with requirements of the NYS BCP, including application fees, community involvement, worker health and safety, and ensuring the cleanup complies with applicable state and federal laws.
5. Professional services required as part of the cleanup.

COSTS NOT ALLOWED WITH LOAN FUNDS

Per EPA, loan funds can **NOT** be used for the following activities:

1. Pre-cleanup environmental assessment activities (i.e. site assessment, identification, or characterization with the exception of site monitoring);
2. Monitoring or data collection necessary to apply for, or comply with environmental permits under other state and federal laws unless such a permit is required as a component of the cleanup action;
3. Construction, demolition, and development activities that are not cleanup actions (e.g. construction of a new facility or marketing of the property);
4. Job training activities unrelated to performing a specific cleanup at a site covered by the loan;
5. Payment of a penalty or fine;
6. Payment of a federal cost share requirement (i.e. a cost-share required by another federal grant) unless there is specific statutory authority;
7. Payment of a response cost at a brownfield site for which the loan recipient is potentially liable under CERCLA §107;
8. Payment of a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup;
9. Unallowable costs (e.g. lobbying and purchases of alcoholic beverages) under 2 CFR Subpart E.

STATE AND FEDERAL REGULATIONS

All applicants must demonstrate an acceptance of, and willingness to follow, all applicable State and Federal regulations and submit compliance reports regarding the following:

- Compliance with the federal Davis Bacon Act, including payment of federal prevailing wage rates for all construction-related activities financed in whole or in part with federal funds, posting DBA information on the job site, and submission of certified weekly payrolls;

- Compliance with Build America, Buy American requirements for sourcing of project materials;
- Compliance with MBE/WBE goals established by EPA; and
- Compliance with the Terms and Conditions of the Cooperative Agreement between Niagara County and EPA. A copy of the agreement will be provided.

LOAN APPLICATION PROCESS

Pre-Qualification

Interested applicants must submit a completed Pre-Qualification Form to the NCBDC. Upon approval of site eligibility from EPA, the applicant will be instructed to complete a loan application.

Loan Application

The applicant will submit an Application for Loan Funding and required attachments. The Niagara County Community College Small Business Development Center (SBDC) is available if needed to assist potential loan borrowers with preparation of a business plan and the required financial documentation to aid in the review and underwriting process. There is no charge for this service.

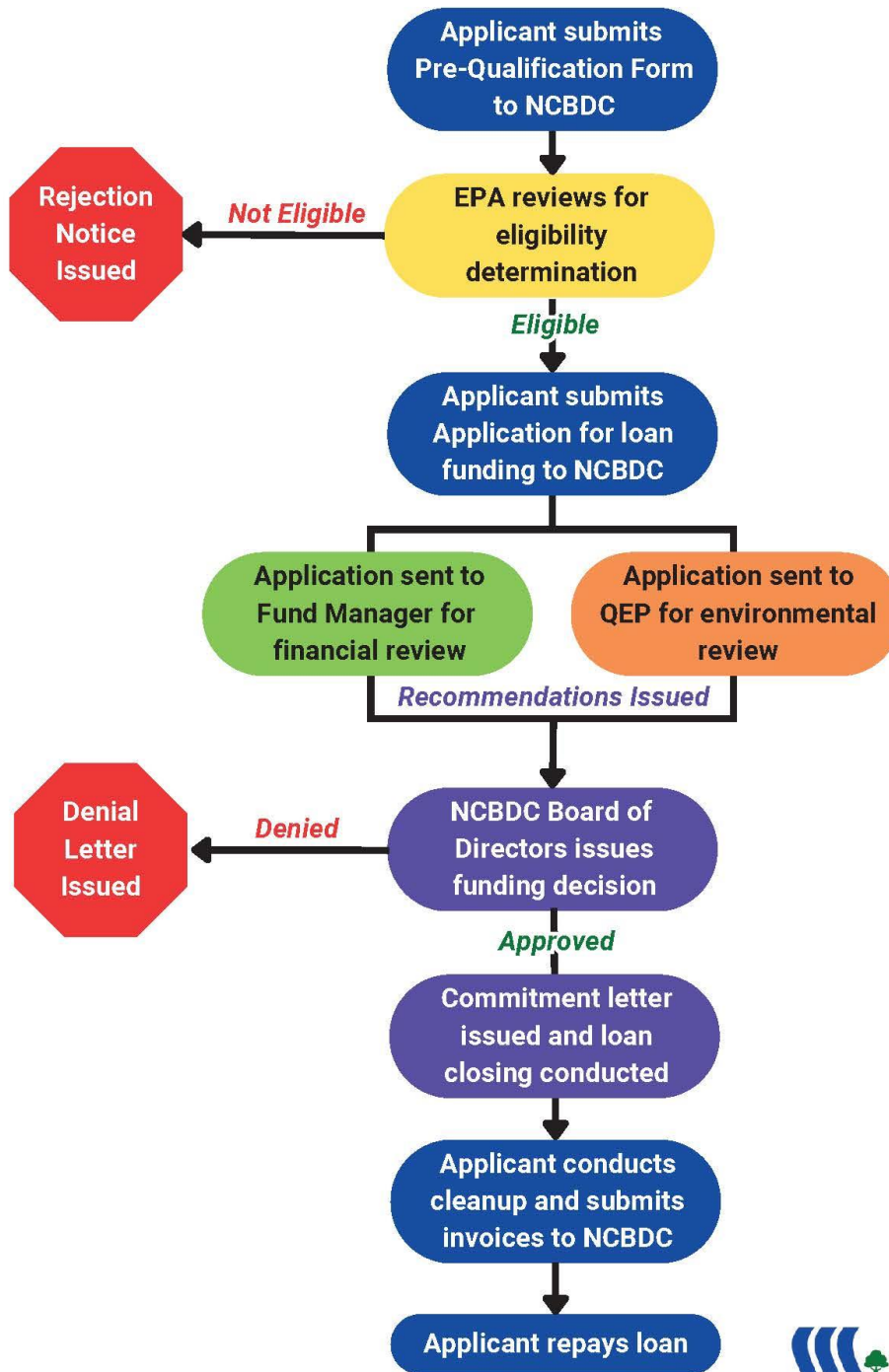
As the BCRLF Qualified Environmental Professional (QEP), Brownfield Redevelopment Solutions will review the environmental assessment reports, discuss the project with the New York State Department of Environmental Conservation, and issue a project recommendation.

An analysis and evaluation of each loan application is made by the NCBDC Fund Manager to determine the level of risk based on the applicant's ability to repay the loan and the value of available security. In order to make that determination, Applicant will be required to provide information including but not limited to financial statements, tax returns, and project specific documentation.

Recommendations from the QEP and Fund Manager are presented to the NCBDC Board of Directors for consideration at a public meeting. Final loan approval rests with the discretion of the NCBDC Board.

If the funding request is denied by the NCBDC Board, the applicant will be notified in writing. If the funding request is approved, a commitment letter will be sent to the applicant that includes the approved loan amount, rate, terms, and primary conditions for the loan. NCBDC staff will work with the applicant and NCBDC attorney to facilitate loan closing.

Brownfield Loan Fund Process



LOAN TERMS AND CONDITIONS

LOANS ARE VERY FLEXIBLE AND CUSTOMIZED TO HELP YOU!

Terms could include:

- No application fees. Payment of loan closing costs required.
- Fixed 0.5% (one-half of one percent) interest rate for the term of the loan.
- Flexible loan terms with no prepayment penalties.
- No principal or interest payments during year one and interest only payments in year two.
- No minimum or maximum loan amount. Amount based on fund availability.
- Loans are based on a reimbursement structure for actual eligible costs incurred.
- Easy processing of invoices and payment typically in 30 days.

Terms effective as of 5/01/2023 and are subject to change at the discretion of the NCBDC Board.

COMMUNITY INVOLVEMENT

Borrowers who are enrolled in the BCP need to submit a copy of the NYS-required community participation plan to the NCBDC. No additional community involvement will be required beyond NYS requirements. For projects not in the BCP, a community involvement plan must be developed and approved by EPA. A Quality Assurance project plan (or NYS equivalent) is required for all projects prior to remediation sampling. Costs associated with meeting community involvement requirements and development of a QAPP are eligible uses of loan funds.

REPORTING REQUIREMENTS

Monthly status updates are required and should be emailed to NCBDC by the 10th of the following month. Information required includes status of cleanup activities, timeframe for remaining work, and any issues that arose during the month. Once cleanup is completed, submission of the NCBDC Project Questionnaire is required.

CONTACT INFORMATION

For further information and assistance, please contact Ms. Amy Fisk, AICP, President of the Niagara County Brownfield Development Corporation, at (716) 278-8754 or by e-mail to amy.fisk@niagaracounty.com.