



LOUISVILLE METRO DEPARTMENT OF
**ECONOMIC GROWTH
AND INNOVATION**

**BROWNFIELD CLEANUP LOAN PROGRAM
ELIGIBILITY CHECKLIST**

RLF funds are designated for **cleanup activities** at eligible brownfields sites.

RLF funds may not be used for pre-cleanup environmental assessment (although the Louisville Metro Department of Economic Growth and Innovation also administers assessment grants that may be used for this purpose), cleanup of naturally occurring substances, monitoring and data collection for purpose of permit compliance required under other federal and state laws, or development activities that are not part of the cleanup.

Eligibility review and credit analysis: conducted by the METCO and the Department of Economic Growth and Innovation staff. The following information will facilitate prompt review of the application:

- The legal structure of the borrower's company
- The adequacy, timeliness and completeness of the borrower's financial statements
- Borrower's record of earnings and cash flow
- Borrower's history of borrowing and adherence to the terms and conditions of those borrowings
- Information from bank and credit references
- Outlook for the borrower's industry
- Borrower's Business Plan
- Borrower's Redevelopment Plan demonstrating the economic viability of the project and identifying the sources of repayment of the loan
- Borrower's ability to manage the cleanup project
- And other factors the applicant may deem appropriate to the particular conditions of the project.

DEPARTMENT OF ECONOMIC GROWTH AND INNOVATION Approval Process

- Property eligibility application and Brownfield Cleanup Loan application reviewed by the Department of Economic Growth and Innovation and METCO staff and approved by US EPA
- Loan final approval decision made by the METCO
- Loan commitment letter issued by the METCO
- Upon receipt of the signed loan commitment letter, loan closing documents are prepared
- Loan proceeds are disbursed incrementally after loan closing and during cleanup activities at the property

Environmental and Property Information Requirements:

- Phase I Environmental Assessment
- Phase II Environmental Assessment

- Cleanup Plan
- Current PVA value of the property

Program policies will be revised on a periodic basis to ensure compliance with changes in Federal and State laws, rules and regulations.

ELIGIBILITY QUESTIONS

Please answer the following proposal eligibility questions:

1. *Eligible Borrowers:* Any private or public entity that meets all of the following criteria:

- Control over (ownership or purchase option) or access to an eligible site
- Exempt from CERCLA liability
- Authorized to incur debt and enter into legally binding agreements. Financially sound
- Completed an economically viable redevelopment plan

Ineligible Borrower: An entity that meets any or all of the following criteria:

- A Potentially Responsible Party (PRP) under Section 107 of CERCLA.
- Currently or previously in environmental non-compliance
- Previously suspended, debarred or declared ineligible for Federal financial assistance programs

Are you an eligible borrower? YES NO

2. For the purposes of EPA’s Brownfields grant program, a “brownfields site” is: “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.” In order to be eligible for brownfields cleanup loan, the site(s) identified or selected for cleanup by a borrower must meet the definition of a brownfields site.

Eligible Brownfield sites: Meet any or all of the following criteria:

- Possess an actual release or substantial threat of a release of a hazardous substance (as listed under 40 CFR Part 302.4) or
- Possess a release or substantial threat of release of a pollutant or contaminant (as defined by CERCLA Section 101(33)) that may present an imminent or substantial danger to public health or welfare under CERCLA Section 104(a)(1).

Ineligible Brownfield sites: Meet any or all of the following criteria:

- Listed or proposed listing on the EPA National Priority List
- A Federal or state agency is planning or conducting a response or enforcement action; or
- Contaminated by petroleum products except to address a non-petroleum hazardous substance (e.g. co-mingled waste)

Some sites are excluded from the definition of a brownfields site unless EPA makes a “property specific funding determination” that allows grant funds to be used at that site.

Is this an eligible property? YES NO

3. *Eligible Project Costs:* Are for cleanup only and must be associated with removal activities as defined in CERCLA Section 101(23) and described in the NCP, 40 CFR Section 300.415.

Eligible project costs include the following:

- Costs associated with removing, mitigating, or preventing the release or threat of release of a hazardous substance, pollutant or contaminant, including:
- Fences, warning signs, or other security or site control precautions;
- Drainage control;
- Stabilization of berms, dikes, or impoundments or drainage or closing lagoons;
- Capping of contaminated soils;
- Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- Excavation, consolidation or removal of highly contaminated soils from drainage or other areas;
- Removal of drums, barrels, tanks or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants;
- Containment, treatment, disposal, or incineration of hazardous materials;
- Provision of alternative water supply where necessary to immediately reduce exposure to contaminated household water and continuing until such time as local authorities can satisfy the need for permanent remedy.
- Site monitoring costs, including sampling and analysis that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup.
- Costs associated with meeting the public participation, worker health and safety, and interagency coordination requirements.
- Costs associated with removal activities, including demolition and/or site preparation that are part of the site cleanup.

Ineligible Project Costs

- Pre-cleanup environmental response activities costs, such as site assessments, identification and characterization;
- Cleanup costs of a naturally occurring substance below background levels, products that are part of the structure of and result in exposure within residential, business or community structures (e.g., interior lead-based paint contamination or asbestos which results in indoor exposure), or public/private drinking water supplies that have deteriorated through ordinary use, except as determined on a site-by-site basis and approved by EPA Headquarters, consistent with CERCLA Section 104(a)(3) and (4);
- Monitoring and data collection costs necessary to apply for or comply with environmental permits under other Federal and state laws, unless such a permit is required as a necessary or essential component of the cleanup action; and

- Development costs that are not remedial actions (e.g., construction of a new facility or marketing of property).

Are the activities being proposed eligible? YES NO

PROPERTY ELIGIBILITY APPLICATION

Property owners or prospective purchasers of brownfield properties must fill out this form and provide relevant supporting documentation (phase I/phase II reports, corrective action plans, etc.) to determine whether the property is eligible to receive EPA funds. Once EPA approval has been granted to a site, the applicant will be notified and invited to submit a loan application to the METCO Board of Directors.

A. Applicant Information

Applicant: _____

Property name: _____

Property Address: _____

Owner of Property: _____

From whom was the property acquired: _____

Date of Acquisition: _____

B. All Appropriate Inquiry

Please describe any inquiry into previous ownership and uses of the facility conducted PRIOR TO PURCHASING the property.

Please describe in detail:

- the types of site assessments performed (i.e Phase I, Phase II),
- who performed the assessments AND
- who reviewed the assessments on behalf of the applicant:

Describe the operational history of the site. Identify how and when, to the extent possible, the

site became contaminated:

Describe, to the extent possible, the nature and extent of contamination:

C. Potentially Responsible Party

Please identify any known parties who may be considered potentially liable for the contamination on the site:

Please describe any family or financial relationship that you have with potentially liable parties at the site:

Identify known on-going or anticipated environmental enforcement actions related to the site:

Describe the steps that have been taken with regard to contamination at the site:

Did the applicant cause or contribute to the contamination at this property?

YES NO

Did the applicant generate or transport any waste brought to the site?

YES NO

D. Continuing Obligations

Are there any land use restrictions and institutional controls on the property due to existing contamination?

YES NO

Please describe the appropriate care that has been exercised with respect to hazardous substances found at the facility. What REASONABLE STEPS have you taken to:

- stop any continuing releases,
- prevent any threatened future release,
- prevent or limit exposure to any previously released hazardous substance

Please note that reasonable steps may include actions such as limiting access to the property, monitoring known contaminants, and complying with state and/or local requirements.

Are you committed to assisting and cooperating with those performing the cleanup and to providing access to the property?

YES NO

Are you committed to complying with all information requests that have or may be issued in connection with the property?

YES NO

E. Property Specific Determination

Certain properties cannot be approved without a “Property Specific Determination”. Please answer the following questions to the best of your knowledge:

1. Is your site/facility subject to a planned or ongoing CERCLA removal action?

YES NO

2. Has your site/facility been issued a permit by the U.S. or an authorized state under the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act (RCRA)), the

Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SWDA)?

YES NO

3. Is your site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h))?

YES NO

4. Is your site/facility a land disposal unit that has submitted a RCRA closure notification under subtitle C of RCRA or is subject to closure requirements specified in a closure plan or permit?

YES NO

5. Has your site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation under TSCA?

YES NO

6. Has your site/facility received funding for remediation from the leaking Underground Storage Tank (LUST) Trust Fund?

YES NO