



Operational Criteria

Brownfields Cleanup Revolving Loan Fund

Maryland Department of the Environment

For additional information or questions, please contact:

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Brownfields Cleanup Revolving Loan Fund Application

1. Introduction

The Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Program is designed to empower states, federally recognized Indian tribes, local governments, communities, and other stakeholders involved in redevelopment to work together in preventing, assessing, and safely cleaning up brownfields in order to help encourage their sustainable reuse. As part of this Program, EPA awarded the Maryland Department of the Environment (MDE) a cooperative agreement to capitalize Brownfields Cleanup Revolving Loan Fund (BCRLF) pilots to facilitate the cleanup and redevelopment of brownfields properties.

On January 11, 2002, the Small Business Liability and Brownfields Revitalization Act was signed into law ("Brownfields Law").¹ This law makes several significant changes to EPA's Brownfields Program. Section 104(k)(3)(D) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, CERCLA (42 U.S.C. 9601) added by the new law provides that "[R]evolving loan funds that have been established before the date of enactment ..." may be used in accordance with the new law. MDE submitted its transition work plan to EPA in 2004 and received approval to operate its BCRLF program under the new law.

2. Loan and Grant Technical Requirements

2.1 Loan and Grant Eligibility

The following section discusses both loan and grant eligibility criteria for Maryland's BCRLF program. The requirements discussed in this document are applicable to BCRLF loan and subgrant projects financed

¹ P.L. 107-118

directly through the Maryland Water Quality Finance Administration (MWQFA). In addition to EPA's criteria for eligible borrowers and subgrantees, MDE has determined that only inculpable persons may apply to receive monies from the BCRLF program for cleaning up qualified Brownfields sites.²

2.2 Voluntary Cleanup Program Projects

All applicants for BCRLF loans and subgrants must demonstrate that they are inculpable persons who will participate or are participating in the Voluntary Cleanup Program (VCP). The projects meeting this initial requirement will be rated/ranked for the following criteria:

1. Environmental benefits
 - a. Does the project address a contaminated property for which contamination represents a risk to human health or the environment?
 - b. Will the project provide open space or green space for a community?
2. Economic benefits
 - a. Will the project provide economic benefits to a community?
3. Other Criteria
 - a. Is the project located within a Priority Funding Area?
 - b. Is the project located within an Environmental Benefits District?
 - c. Has the project applied to the Priority Places Program?

2.3 Eligible Borrowers and Subgrantees

Eligible borrowers can be any public or private entity with control over or access to a brownfields site. Eligible subgrantees are limited to states, political subdivisions, U.S. territories, Indian tribes, and non-profit

² For this document, MDE relies upon the definition of "Inculpable Person" found in §7-501(j) and the definition of a "Brownfield Site" §5-1401(j).

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organizations that own the site they intend to clean up. All borrowers and subgrantees must be a bona fide prospective purchaser (BFPP), a contiguous property owner (CPO) or an innocent landowner. Borrowers and subgrantees who are eligible, or seek to become eligible, to receive a loan or subgrant based on liability protection from CERCLA in one of these three categories must meet certain threshold criteria and satisfy certain continuing obligations to maintain their status as an eligible borrower or subgrantee. These sites are described in Figure 2 on page 4.

In addition, eligible borrowers must also be authorized to incur debt, enter into legally binding agreements and be financially sound.

2.4 Subgrant Eligibility

Cleanup subgrants may be provided to an eligible entity or non-profit organization to clean up sites owned by the eligible entity or non-profit organization at the time the subgrant is awarded. In addition to the restrictions identified above, the recipient must take into consideration and document the extent to which a subgrant will:

- Facilitate the creation or preservation of greenspace (e.g., a park, recreational area);
- Benefit the needs of low income communities who have limited sources of funding for environmental remediation and redevelopment;
- Facilitate the use of existing infrastructure; and

Figure 1 Categories of Liability Protection under CERCLA

1. To Assert BFPP, CPO, or ILO Limitation on Liability a Borrower/Subgrantee **MUST**
 - Perform (or have already performed) "all appropriate inquiry" as provided for in CERCLA § 101(35)(B), on or before acquiring the property.¹
2. To Qualify as BFPP or CPO, A Borrower/Subgrantee **MUST NOT BE**:
 - Potentially liable, or affiliated with any other person that is potentially liable, for cleanup costs through: (a) any direct or indirect familial relationship, or (b) any contractual, corporate, or financial relationships;
 - A recognized business entity that was potentially liable; or
 - Otherwise liable under CERCLA §107(a) as a prior owner/ operator or generator or transporter of hazardous substances to the facility.
3. To Achieve / Maintain CERCLA Liability, Landowners Are Obligated to Continue:
 - Complying with land use restrictions and not impeding the effectiveness or integrity of institutional controls;
 - Taking reasonable steps with respect to hazardous substances releases;
 - Providing full cooperation, assistance, and access to persons that are authorized to conduct cleanup actions or natural resource restoration;
 - Complying with information requests and administrative subpoenas (applies to BFPPs and CPOs); and
 - Complying with legally required notices (again, this applies to BFPPs and CPOs).

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- Promote the long-term use of Revolving Loan Fund (RLF) monies funds.

Additional eligible subgrant recipients include non-profit organizations as defined at Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999. Non-profit organizations described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995 are not eligible for subgrants. The subgrant recipient must retain ownership of the site throughout the period of performance of the subgrant. The recipient may not provide a subgrant to itself or another component of its own unit of government or organization.

2.5 Ineligible Borrowers and Subgrantees

An ineligible borrower or subgrantee is an entity that meets any or all of the following criteria:

- A responsible person as defined in COMAR Section 7-501;
- A project ineligible to participate in the VCP;
- A generator or transporter of contamination at a Brownfields site
- Currently or previously in environmental non-compliance
- Previously suspended, debarred or declared ineligible for Federal financial assistance programs.

In addition, for-profit organizations are not eligible for subgrants.

2.6 Site Eligibility Criteria

Applicants can use BCRLF monies to clean up eligible Brownfield sites. Although the federal definition of a Brownfield is any “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”, not all sites meeting this definition are eligible for funding. EPA has determined that only certain sites contaminated by hazardous substances, petroleum products or mine-scarred lands are eligible for BCRLF monies. Figure 2 summarizes these eligible sites.

There are certain sites that, with a property-specific determination, may qualify for BCRLF monies. If an applicant believes that a site meets the criteria specified in Figure 2 on page 4, they must request technical assistance from EPA in developing the documentation necessary for EPA to determine whether sites qualify for RLF funds and when a property-specific funding determination can be made. Property-specific determinations for RLF funds require the following information to be submitted to EPA for their approval:

- Basic site identification information and eligible entity identification information;
- The specific circumstance that requires this request for a property-specific determination (i.e., what type of facility is in question);
- A short explanation of why the site requires a property-specific funding determination; and
- The degree to which other funding is or is not available for the assessment or cleanup of the site.

For further information on property-specific determinations in Maryland, contact the BCRLF point of contact listed at the beginning of this document.

2.7 Eligible Uses of BCRLF Monies

Under EPA’s rules, a borrower or subgrantee may only use BCRLF monies for cleanup activities and certain allowable programmatic costs. Figure 3 on page 5 provides examples of both eligible and ineligible cleanup activities.

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Figure 2 Categories of Eligible/Ineligible Sites

| Types of Eligible Sites |
|---|
| <p><i>Eligible Sites Contaminated by Petroleum/Petroleum Products</i></p> <ul style="list-style-type: none"> • EPA or MDE has determined the site is of ‘relatively low risk’ compared with other ‘petroleum-only’ sites in the state; AND • There is no viable responsible party; AND • Funding will be used by a party that is not potentially liable for the petroleum contamination to assess, investigate, or clean up the site. |
| <p><i>Eligible Sites Contaminated by Controlled Substances</i></p> <ul style="list-style-type: none"> • A “controlled substance” is defined under the Controlled Substances Act as “a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this title (21 U.S.C. Section 802).” • Controlled substances include drugs or other substances (see section 102 of the Controlled Substances Act, 21 U.S.C. Section 802, for a list of controlled substances), but do not include distilled spirits, wine, malt beverages, or tobacco. |
| <p><i>Eligible Mine-Scarred Lands</i></p> <ul style="list-style-type: none"> • Land, associated waters, and surrounding watersheds where extraction, beneficiation, or processing of ores and minerals (including coal) has occurred. (See 40 C.F.R. 261.4(b)(7) for the definition of extraction, beneficiation, and processing.) • Mine-scarred lands include abandoned coal mines and lands scarred by strip mining. |
| Types of Ineligible Sites |
| <p><i>Brownfield Site</i></p> <ul style="list-style-type: none"> • Listed, or proposed for listing, on the National Priorities List (NPL); • Subject to a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree issued or entered into by parties under CERCLA; and • Subject to the jurisdiction, custody, or control of the United States government, except for land held in trust by the United States for an Indian tribe. |
| <p><i>Sites Contaminated by Petroleum/Petroleum Products</i></p> <ul style="list-style-type: none"> • Sites subject to a corrective action order under RCRA § 9003(h); or • Sites that have received specific cleanup assistance under the Subtitle I of RCRA from the Leaking Underground Storage Tank (LUST) trust fund are excluded from receiving financial assistance, unless a property-specific funding determination from EPA is obtained |

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Figure 3 Examples of Eligible and Ineligible Costs

| Eligible Environmental Cleanup Activities | Ineligible Environmental Cleanup Activities |
|--|---|
| <ul style="list-style-type: none"> • Documentation of the Analysis of Brownfields Cleanup Alternatives (ABCA); • Oversight of cleanup activities; • Installation of fences, warning signs, or other security or site control precautions; • Installation of drainage controls, stabilization of berms, dikes, or impoundments; or drainage or closing of lagoons; • Capping, excavation, consolidation, or removal of contaminated soils; • Using chemicals and other materials to retard the spread of the release or mitigate its effects; • Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum; • Removal of source materials, including free product recovery; and • Containment, treatment, or disposal of hazardous materials and petroleum contamination. | <ul style="list-style-type: none"> • Pre-cleanup environmental assessment activities, such as site assessment, identification, and characterization with the exception of site monitoring activities as described above; • A cleanup cost at a brownfields site for which the recipient of the grant or loan is potentially liable under CERCLA §107; • Construction, demolition, and development activities that are not cleanup actions (e.g., marketing of property or construction of a new non-cleanup facility); • Cost sharing or matching requirement for another federal grant (absent statutory authorization); • Support of job training; • Support of lobbying efforts of the recipient; and • Certain administrative costs prohibited by the Brownfields Law. |
| Eligible Site Assessment Activities | Ineligible Site Assessment Activities |
| <ul style="list-style-type: none"> • Reasonable and necessary site monitoring activities during the cleanup process; • Site assessment activities that are reasonable, necessary, and incidental to the cleanup process; • Costs associated with meeting public participation, worker health and safety, and programmatic management requirements. | <ul style="list-style-type: none"> • Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action; |
| Eligible Administrative / Programmatic Costs and Activities | |
| <ul style="list-style-type: none"> • Investigation and identification of the extent of the contamination; • Design and performance of a cleanup action; • Monitoring of natural resources for contamination. • VCP or State cleanup program fees associated with the cleanup; • Costs required to purchase insurance; • Costs incurred for complying with procurement provisions of 40 C.F.R. Part 30 and 40 C.F.R. Part 31. | |

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3. Loan and Subgrant Financial Requirements

3.8 Loan Interest Rates

The interest rate on RLF loans is set as a percentage of "market rate" to provide an interest rate subsidy to the Borrowers. The MWQFA market rate is defined as the average of the Bond Buyer 11-Bond Index (BB11-BI) for the month preceding the loan closing.

The current rates are listed below:

Loan Size Limit: None (Limited by Availability of Funds)
Interest Rate: 40% of Market Interest Rate. The Market Interest Rate is defined as the average of the Bond Buyer 11-Bond Index for the month preceding the loan.

Loan Term: Up to 20 Years
Origination Fee: None
Administrative Fee: 5% of the aggregate debt service divided by the number of administrative fee payments over the life of the loan, and is collected annually. This amounts to approximately a 0.50% (or 50 basis points) increase in the interest rate for a 20-year loan.

3.9 Cost Share

The new law requires that RLF recipients pay a 20 percent cost share of the total federal award. This cost share may be provided in the form of cash, labor, materials, or services from non-Federal sources. Only eligible and allowable costs will be used to meet the 20 percent cost

share requirement. MDE will track the cost share by requiring borrowers and subgrantees to provide qualified contractors' invoices for all eligible costs incurred at sites funded through the program. In addition, borrowers and subgrantees will be required to disclose to MDE the source of payment of eligible costs not funded through the RLF. Whether the match is paid for by the borrowers and subgrantees themselves, or through some other eligible public funding mechanism, MDE will ensure that the RLF funding pays for no more than 83.3 percent of the total eligible costs for the project and those eligible funding sources provide at least the required cost share.

3.10 Loan and Subgrant Process

The following is a brief summary of the BCRLF Loan and Subgrant Process:

- Pre-application submitted to MDE anytime during the year;
- Project reviewed for eligible participation in the VCP as an inculpable person;
- Financial Analysis/Credit Review undertaken by MWQFA;
- Engineering/Environmental Review (if applicable), State Clearinghouse review undertaken by WAS; and
- Project approved for Loan/Subgrant Execution (Direct or Linked Deposit).

Direct Loan

Eligible borrowers may seek a direct loan from the BCRLF through the MWQFA. This would involve completion of a final loan application, securing legal representation, and execution of a loan agreement typically backed by a general obligation pledge (public entities) or by

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other means of security (private entities). The borrower must also comply with the following key program requirements:

- MDE approval of the final Design Plans and Specifications
- Competitive bidding on construction contract with a Minority/Women Business Enterprise (M/WBE) participation goal of 14 percent of the loan amount for projects funded by federal capitalization grant/state match funds. MDE will provide the borrower with the M/WBE goal applicable to their project.
- MDE approval of procurement before loan payment reimbursement.

Credit Analysis

For all loans through the MDE, the MWQFA reviews the financial condition of the Borrower. The past and projected financial performance of the Borrower is a key part of the analysis in making the determination to approve a loan. The primary concern is to ensure that the designated revenues are sufficient to support adequate operations and maintenance, and the existing and proposed debt. Where revenues are inadequate, the Administration will work with the Borrower in preparing a fiscal plan to support the loan.

Security Pledges

For loans made by MWQFA to local governments, the Administration will require both a Revenue Pledge and a General Obligation (GO) Pledge, where the Borrower pledges its full faith and credit to the repayment of the debt. The MWQFA may accept only a Revenue Pledge, if the loan has a senior or parity lien (first claim) on the revenues. For a revenue pledge to be acceptable, the owner must demonstrate that the existing or projected level of revenue is sufficient to pay for operations and

maintenance costs, and debt service on the proposed loan. In addition, the Loan Agreement may include a rate covenant or other loan conditions. The MWQFA will negotiate the terms of these covenants with the Borrower on a case-by-case basis.

State-Aid Intercept

As an additional measure of security, all Borrowers must agree, as a condition of the loan, to permit the State Comptroller to pay the MWQFA from any State funds due to the Borrower, in the event of a debt payment default.

Declination of a Loan

The MWQFA will not make a loan if the Administration determines the loan amount would place an undue burden on the financial resources of the Borrower. If the potential Borrower cannot demonstrate adequate financial capacity, the Department will assist the Borrower in meeting VCP project needs by seeking other forms of financial and technical assistance.

3.11 Loan and Subgrant Applications

Loan and subgrant applications will be reviewed based upon, but not be limited to, the following criteria:

1. Applicant has applied to, or is applying to Maryland's Voluntary Cleanup Program as an inculpable person;
2. A copy of the full VCP application, including
 - a. Phase I and Phase II Environmental Site Assessments, based on "American Society for Testing and Materials Standards ("ASTM") on Environmental Site Assessments for Commercial Real Estate, E-1527, 3rd Edition" and the Proposed All Appropriate Inquiry Standards, prepared by Qualified Environmental Professional with distinct delineation

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- of cleanup requirements and related costs for site cleanup.
- b. Inculpable Person Affidavit
 3. Written statement demonstrating that the site is an "eligible brownfields site" as described in Section # of this document.
 4. Analysis of cleanup alternatives (EE/CA or equivalent) as described in the Phase II Environmental Site Assessment.
 5. Project pro-forma identifying environmental remediation costs as a line item. Costs must be verified in EE/CA.
 6. Evidence of community support for the development project and letters of support.
 7. Description of community benefit, job creation or retention, or economic revitalization that would result from the property being cleaned up.
 8. Certification that the applicant is not currently and never has been subject to any penalties resulting from environmental non-compliance at the site subject to the loan.
 9. Ability to repay the loan.

Selection Process

Once MDE receives an application for a loan or subgrant, it will evaluate the application to determine if the project fits the site selection criteria. In addition, MDE will determine if the applicant is an eligible borrower or subgrantee under EPA and MDE requirements. These requirements are described in Section 2 of this document.

Next, MDE will review the site assessment provided by the applicant or another party to the cleanup, determine whether the applicant is required to seek a Certificate of Completion (COC) and develop a response action plan as part of this process, and document these findings in an acceptance letter to the applicant. MDE also will undertake a financial capacity/credit review

of the applicant based on the MWQFA loan underwriting criteria.

Implementation Process

If a loan or subgrant application is approved, MDE will transfer funds on a reimbursement basis. Before initiating any response action, the Borrower or Subgrantee must first receive approval for its Response Action Plan (RAP). An approved RAP must include a site-specific health and safety plan must include any environmental data collection activities to be conducted as part of a response action. A Quality Assurance Project Plan (QAPP) must be prepared and submitted to MDE and the EPA for approval.

A final loan or subgrant decision shall not be made before carrying out the required community relations and public involvement activities. In no event shall any loan decision preclude the ability of MDE to change a BCRLF response, or any portion of the response, based on comments from the public or on any new information acquired by MDE.

MDE has determined that the public participation requirements of the Brownfields Redevelopment Reform Act of 2004 (BRRA) will satisfy EPA's community outreach requirements for the BCRLF. As required under Title 7, Section 509, the Borrower or Subgrantee must provide the public with the opportunity to comment upon the proposed RAP. To fulfill this requirement, the Borrower or Subgrantee will publish a notice two weeks in advance of any public meeting in the local newspaper and place a sign on the site announcing the time, date and location of the public meeting. In addition, MDE will post a notice announcing the public meeting on its website. This announcement will also notify the public that the Borrower or Subgrantee's VCP application, along with supporting

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documents and proposed RAP are available for public review.

Once the Borrower or Subgrantee has responded in writing to the public comments and MDE's comments, MDE/WAS shall prepare a letter stating that the RAP is approved and send a copy of this letter documenting the selected response action(s) to the EPA.

The Borrower or Subgrantee also agrees to abide by all federal, state, and local appropriate relevant and applicable regulations.

Contract/Bid Document Review

Before bidding, the borrower will provide the WAS/BCRLF project manager a copy of the plans and specification for review and approval. The key areas of review involve:

- Project scope of work is eligible under the BCRLF
- Opportunity for competitive bidding
- Minority/Women Business Enterprise (M/WBE) participation. The project manager will provide the borrower a "specification insert" to comply with the (M/WBE) participation goal of 14%.

Loan Closing

When final project costs are determined, and all eligibility requirements are satisfied, the MWQFA will coordinate closing of the loan with the borrower. Prior to the disbursement of loan proceeds, the borrower will deliver to the Administration its Loan Obligation, which is defined as a bond, note, or other evidence of obligation to evidence its indebtedness under the Loan Agreement. Standard security terms include General Obligation Pledge, and a dedicated revenue pledge. The borrower will need to be represented by legal counsel, and make certain representations regarding the indebtedness.

Disbursement of Funds

Disbursement of loan proceeds to the borrower will be on an "incurred cost" basis. After the loan has been executed, the borrower may make periodic payment disbursement requests to MDE supported by contractor/vendor invoices indicating costs incurred based on work completed. When MDE receives this "payment request" from the borrower, the BCRLF project manager will review the request and initiate approval of payment. MDE expects to transfer the funds to the borrower within 30 days. Concurrently, MDE will draw federal funds against the EPA grant.

Reporting

Borrowers must maintain documentation of all expenditures and response activities for a minimum of ten (10) years after the completion of the activity supported by each loan; and must obtain written approval from MDE/WAS before disposing of the records.

During the response action, the borrower will:

- Supply site-specific information required by 40 CFR part 35 subpart O.
- Supply documentation that all federal and state worker health and safety requirements are met.
- Supply written notification of off-site shipments of wastes at least five days before the actual shipment of these wastes.
- Supply documentation that response actions are carried out in compliance with non-time critical removal action requirements of the National Contingency Plan (NCP) as well as any other applicable or relevant and appropriate requirements of federal, state or local laws or regulations.

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- Borrower must comply with all applicable local, state, and federal loan reporting requirements.

4. Additional Sources of Information

U. S. Environmental Protection Agency, *Revolving Loan Fund Grant Program Administrative Manual*, October 2004.

Maryland Department of the Environment, *Voluntary Cleanup Program, Interim Guidance*, November 2003.

Brownfields Cleanup Revolving Loan Fund Application

5. APPENDICES

MARYLAND DEPARTMENT OF THE ENVIRONMENT
 Montgomery Park Business Center
 1800 Washington Boulevard, Baltimore, MD 21230-1708
 (410) 537-3000 1-800-633-6101 <http://www.mde.state.md.us>

**BROWNFIELD CLEANUP REVOLVING LOAN FUND PROGRAM
 PRE-APPLICATION FOR FINANCIAL ASSISTANCE**

1. General Information: Individual forms must be fully completed for each proposed project for which MDE grant and/or loan funds are being requested.

| | | | | | |
|--------------------------------|--|--------------------|--|------------------------------|--|
| Project Title: | | | | | |
| Project Location/County: | | | | | |
| Applicant Name: | | | | | |
| Address: | | | | | |
| Congressional District: | | | | Legislative District: | |
| Contact Person/Title: | | | | | |
| Contact Address: | | | | | |
| Phone Number: | | Fax Number: | | E-mail: | |

A/F #: (MDE use only):

2. Voluntary Cleanup Program (VCP) Status

a. Has the Applicant Applied to the VCP? Yes To Be Determined
 No

If "Yes", please complete the following questions. If "No", the applicant is not eligible for the Brownfield Cleanup Revolving Loan Fund Program.

b. Is the Applicant an Inculpable Person? Yes No c. Has the Applicant been accepted by the VCP as an Inculpable Person? Yes To Be Determined
 No

If "Yes", please attach a copy of the VCP Acceptance Letter to this application.

3. Please select the type of organization that best identifies the Applicant?
 For Profit Organization Not-for-Profit Organization Local Government

a. Financial Assistance Requested: **Loan** Grant (1)

4. Project Type

a. Site Cleanup b. Site Assessment (2) c. Other Activities (2)

5. Project Description: Provide detailed project scope and description of the problem to be corrected (include attachments if necessary).

| |
|--|
| |
| |
| |

(1) Only Not-For-Profit Organizations and Local Governments are eligible to receive grants.
 (2) Refer to the MDE "Operational Criteria, Brownfields Cleanup Revolving Loan Fund" guidance for a list of eligible activities.

| | |
|---|--------------------------------|
| 6. Environmental Quality and/or Economic Redevelopment Benefits: Provide description of project's benefits (contaminated environmental media addressed, jobs created, tax revenue, open space created, etc.) | |
| | |
| | |
| | |
| | |
| 7. Proposed Funding Sources and Budget | |
| Proposed Funding Sources | Proposed Project Budget |
| Applicant \$ | Administrative \$ |
| *MDE \$ | Engineering \$ |
| Others (specify: RD CDBG, EPA, etc.) \$ | Construction \$ |
| Refinancing \$ | Land \$ |
| | Contingency \$ |
| | Others \$ |
| Total Cost \$ | Total Cost \$ |
| 8. Proposed Schedule | |
| Start Month/Year | Complete Month/Year |
| Planning | |
| Design | |
| Bidding | |
| Construction | |
| 9. Project Location Map | |
| Please include the ADC map and latitude/longitude coordinates of the exact project location, and attach a copy of the map to the pre-application form. | |
| Date of ADC Map: | Latitude: Longitude: |
| 10. Authorization | |
| Authorized Representation Signature: | Date: |
| Name: | Title: |
| Return completed Pre-application to the Environmental Restoration & Redevelopment Program, Waste Management Administration, Maryland Department of the Environment, Montgomery Park Business Center, 1800 Washington Boulevard, STE 625, Baltimore, MD 21230-1708. Attention: Jim Carroll. In case you have additional questions or need help filling out the pre-application, please contact us at (410) 537-3437. | |

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Montgomery Park Business Center
1800 Washington Boulevard, Baltimore, MD 21230-1708
(410) 537-3000 • 1-800-633-6101 • <http://www.mde.state.md.us>

NON-GOVERNMENTAL

FINAL LOAN APPLICATION FOR BROWNFIELD CLEANUP REVOLVING LOAN FUND (BCRLF)

General Instructions

- 1. All attachments must be labeled** with the name of the applicant and project name.
- 2. Use of this Application** - This application is to be used by the owners of Brownfields properties in Maryland to obtain low interest loans from the Brownfields Cleanup Revolving Loan Fund (BCRLF). The purpose of these BCRLF loans is to assist the property owner in implementing the approved Brownfield cleanup plan.

Only properties entered in the Voluntary Cleanup Program (VCP) by an Inculpable Person are eligible to receive BCRLF loans. A VCP applicant who has not yet been accepted into the VCP may begin the application process for a BCRLF loan. The loan cannot be approved, however, until MDE approves the VCP application and cleanup plan for that site.
- 3. Submission** - If an item cannot be answered or does not appear to be relevant to your request, write "NA" for "not applicable." A document checklist is included which MDE will use in reviewing your application. The applicant should complete this application, sign and date it, and mail to the following address: Maryland Department of the Environment, Waste Management Administration, Environmental Restoration and Redevelopment Program, 1800 Washington Boulevard, Suite 625, Baltimore Maryland 21230. The Waste Management Administration will coordinate with the Maryland Water Quality Financing Administration in the loan application approval and loan closing proceedings for all BCRLF loans.
- 4. Assistance** - Prior to submission, assistance on completing this application may be obtained from the Waste Management Administration at (410) 537-3437.



DOCUMENT CHECKLIST

Enclosed are copies of the attached application materials for the following project:

Project Name: _____

Borrower: _____

Indicate the status of the following items:

| | <u>Enclosed</u> | <u>N/A</u> | <u>Previously Submitted on</u> | <u>Date for Submission</u> |
|---|-----------------|------------|--------------------------------|----------------------------|
| 1. Approved VCP Application and Inculpable Person Affidavit | _____ | _____ | _____ | _____ |
| 2. Copy of Charter Documents, By-laws of the Corporation | _____ | _____ | _____ | _____ |
| 3. Audited Financial Statements: (Prior 3 years) | _____ | _____ | _____ | _____ |

i.e. - Balance Sheet, Statement of Revenues, Expenditures and changes in Fund Balance, Statement of cash flows, Notes to Financial Statements, Management Letters

ECONOMIC AND FINANCIAL INFORMATION

Project Name: _____

A. **GENERAL INFORMATION**

Corporate Name _____

Address _____

Legal name of Borrower _____

Authorized Representative (if other than above) _____

Address _____

Phone _____ Fax Number _____

Attorney _____

Address _____

Phone _____ Fax Number _____

Chief Financial Officer or Treasurer _____

Address _____

Phone _____ Fax Number _____

Remedial Contractor or Environmental Consultant _____

Address _____

Phone _____ Fax Number _____

B. STRUCTURE

Organizational Chart: Attachment Number _____

Association Charter/Articles of Incorporation: Attachment Number _____

Are you an association? _____

Are you a corporation? _____

Are you a proprietorship? _____

Are you a partnership? _____

C. DEBT INFORMATION (not included in audited financial statements)

- Complete the below table listing all outstanding debt commitments **not included in most recent audited financial statements:**

| Amount | Rate | Term | Annual Debt Service Payment | Purpose |
|--------|------|------|-----------------------------|---------|
| | | | | |
| | | | | |
| | | | | |

- Complete the below table listing anticipated debt commitments to be entered into in the next 12 months:

| Amount | Term | Purpose |
|--------|------|---------|
| | | |
| | | |
| | | |

- Are there any other factors that would significantly affect the revenues, expenditures, financial condition or capacity, or authority to incur debt? (i.e. litigation, default, etc.)

Instructions for Project Cost Calculation Sheet

1. Administration and Legal Expenses - Enter amounts for administrative expenses and legal expenses related to the construction of the project. "Administration" includes planning, application completion, organization, scheduling, record keeping, filing, procurement, change order processing, claims management, overall project coordination and management (if not included as part of A/E costs). "Legal expenses" include attorney fees and associated costs for contract development, review, and interpretation, procurement review, negotiation, legal advice, permits, litigation, and overall legal support.

2. Planning/Design Engineering Fees - Contractual expenses for planning and design of the project.

3. Total Construction Cost (including contingencies) \$_____.

Examples:

- Structures and related costs** - Amounts directly necessary for the construction of the approved site remedy. Rights-of-way costs are not eligible.
- Site work** - Construction costs related to site preparation.
- Demolition and removal** – Amounts for demolition or removal of structures necessary for site preparation including any credit from proceeds from the sale of salvage or the removal of structures. The amount shown should be the net amount.
- Construction** - Those amounts associated with the actual construction contracts for the project.
- Equipment** - Amounts for all equipment, both fixed and movable, necessary for the project.

4. Construction Phase Engineering/Inspection Fees - Amounts for technical services of engineers or architects, including preparation of engineering documents, cost estimating, construction inspection and oversight, project start up, operation and maintenance training, performance certification, change order review, and overall technical support.

- Other engineering fees** - Any other fees for engineering or architectural services not shown above. Attach explanation.
- Project inspection fees** - Costs related to inspection fees for construction.



PROJECT COST CALCULATION SHEET

| Cost Classification | A. Total Costs (Costs to be funded by th BCRLF) | B. Costs Not Allowable (Costs not to be funded b the BCRLF loan) | C. Allowable Costs = Column A. - Column B |
|--|---|---|--|
| 1. Administrative & Legal Expenses | | | |
| 2. Planning/Design Engineering Fees | | | |
| 3. Total Construction Cost (including contingencies) | | | |
| 4. Construction Phase Engineering/ Inspection Fees | | | |
| TOTALS: | | | |

PROPOSED FINANCING OF PROJECT COSTS

| | |
|---|-----------------|
| 1. Brownfield Cleanup Revolving Loan Fund | \$ _____ |
| 2. Other Federal or State Assistance | \$ _____ |
| 3. Other Financial Assistance | \$ _____ |
| 4. Applicant's Funds | \$ _____ |
| 5. Private Funds (ex., developer agreements) Attach a copy of funding agreements | \$ _____ |
| TOTAL PROJECT COST: | \$ _____ |

PROJECT SCHEDULE

| <u>MILESTONE</u> | <u>DATE</u> |
|---|-------------|
| Initiation of Design | _____ |
| Plans and Specifications Submittal to MDE | _____ |
| Advertise for Construction Bids | _____ |
| Notice to Proceed with Construction | _____ |
| Construction Completion | _____ |
| Final Payment Request (i.e. retainage, if applicable) | _____ |

CERTIFICATION

I, the undersigned Authorized Representative, certify that:

1. The facts and representations contained in this application and in the addenda are true and correct to the best of my knowledge.
2. No financial commitments have been made or will be made which rely on receipt of a loan through the Maryland Water Quality Financing Administration or the Brownfield Cleanup Revolving Loan Fund.
3. The borrowing entity will comply with the requirements under the Brownfield Cleanup Revolving Loan Fund Program.
4. **THE BORROWING ENTITY ACKNOWLEDGES AND UNDERSTANDS THAT IF THE ADMINISTRATION APPROVES THE LOAN APPLIED FOR, THE ADMINISTRATION WILL IMMEDIATELY COMMIT ITS RESOURCES TO THE CLOSING OF SUCH LOAN. SUCH COMMITMENT OF RESOURCES MAY INCLUDE, WITHOUT LIMITATION, APPEARING BEFORE THE STATE BOARD OF PUBLIC WORKS AND INCURRING LEGAL FEES WITH A PRIVATE LAW FIRM. ACCORDINGLY, THE BORROWING ENTITY, BY EXECUTION OF THIS FINAL LOAN APPLICATION, EVIDENCES ITS GOOD FAITH INTENTION OF AND COMMITMENT TO CLOSING THE LOAN APPLIED FOR IF APPROVED BY THE ADMINISTRATION.**

Legal Name of Borrower

Print Name and Title of Duly Authorized Representative

Signature

Date

Note: The Acceptance of this form by the Maryland Department of the Environment does not represent a commitment with respect to a loan from the Brownfield Cleanup Revolving Loan Fund.

