MOHAWK VALLEY EDGE

USEPA Brownfields Cleanup Revolving Loan Fund (RLF) Program Overview



For Brownfield Remediation Projects in Herkimer and Oneida Counties, New York

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584 Phoenix Drive, Rome, NY 13441
Phone: (315) 338-0393 • www.mvedge.org

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ASSISTANCE FOR BROWNFIELD SITES

Do you own property that needs to be cleaned up? If yes, we can help!

Mohawk Valley Economic Development Growth Enterprises (MVEDGE) manages a Brownfields Revolving Loan Fund that offers low-cost loans to assist with the cleanup costs at brownfield sites in Herkimer and Oneida counties, New York. **Each loan is customized to provide the greatest flexibility to the borrower.**

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

The loan fund is capitalized with funding from the United States Environmental Protection Agency (USEPA) and can be a key component of project financing.

SITE ELIGIBILITY

Eligible sites include:

- ✓ Sites contaminated by hazardous substances (ex. metals, PCBs, asbestos, lead-based paint, mold, radiological materials, etc.)
- ✓ 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 contaminated with exclusively petroleum contamination;
- × 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;
- 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 must have performed "all appropriate inquiry" before acquiring the property;
- 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, mold removal, demolition and/or site preparation 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 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. A cleanup cost at a brownfields site for which the loan recipient is potentially liable under CERCLA §107;

4. Construction, demolition, and development activities that are not cleanup actions (e.g. construction of a new facility or marketing of the property);

5. Payment of a federal cost share requirement (i.e. a cost-share required by another federal grant) unless there is specific federal authorization;

6. Payment of a penalty or fine or as a cost of compliance with any federal law, excluding the cost of compliance with laws applicable for the cleanup;

7. Job training or lobbying efforts in accordance with applicable federal OMB Circulars; and

8. Payment of administrative costs including the following:
    a. Salaries, benefits, contractual costs, supplies, and other charges incurred for loan administration and overhead costs;
    b. Direct costs for loan administration, even if the borrower is required to carry out the activity under the loan agreement. Ineligible loan administrative costs include expenses for:
        i. Preparation of applications for loan agreements;
        ii. Preparing revisions and changes in the budget, work plans, and other documents required under the loan agreement;
        iii. Maintaining and operating financial management and personnel systems;
        iv. Preparing payment requests and handling payments; and
        v. Audits

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:

- Payment of federal prevailing wage rates for all construction-related activities financed in whole or in part with federal funds; and
- Compliance with the Terms and Conditions of the Cooperative Agreement between Mohawk Valley EDGE 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 MVEDGE. Upon approval of site eligibility from USEPA, the applicant will be instructed to complete a loan application. The Mohawk Valley Small Business Development Center (SBDC) is available to assist potential loan borrowers with preparation of a business plan and financial projections to aid in the review and underwriting process.

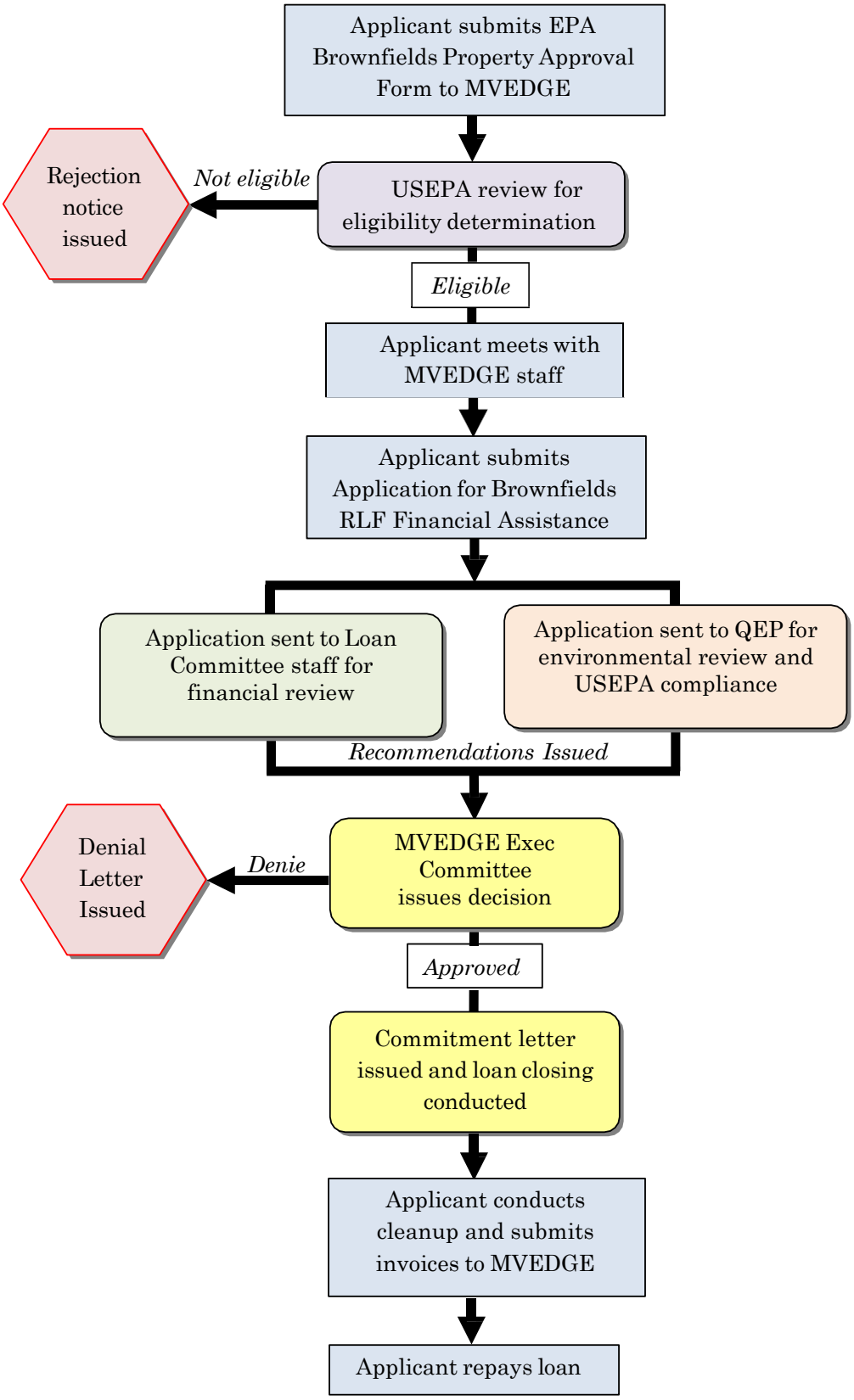
Loan Application

The applicant will submit an Application for Brownfields Financial Assistance to MVEDGE. The MVEDGE Qualified Environmental Professional will review the environmental assessment reports, discuss the project with the New York State Department of Environmental Conservation & Department of Health, and issue a project recommendation.

An analysis and evaluation of each loan application is made by the MVEDGE Loan Committee to determine the level of risk based on the applicant's ability to repay the loan and the value of available security. The analysis and, if appropriate, a recommendation regarding loan terms and conditions are presented to the MVEDGE Executive Committee for consideration. Final loan approval rests within the discretion of the MVEDGE Board.

If the funding request is denied by the MVEDGE Executive Committee, the applicant is notified in writing and MVEDGE staff will review the project to determine if restructuring and resubmission to the MVEDGE Loan Committee is appropriate. If the funding request is approved, a commitment letter will be sent to the applicant that includes the amount, rate, terms, and primary conditions for the loan. MVEDGE staff will work with the applicant and MVEDGE attorney to facilitate loan closing.

Brownfield Loan Fund Process



LOAN TERMS AND CONDITIONS

LOANS ARE FLEXIBLE AND CUSTOMIZED FOR YOUR PROJECT

Terms could include:

- No application fees. Loan closing costs required. Commitment fees may be required.
- Fixed 1% (one percent) interest rate for the term of the loan
- Flexible loan terms
- No principal or interest during year one and interest only payments in year two
- Eligible projects may borrow up to $250,000* (*regionally-significant projects may request more on case-by-case basis). Final 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 06/01/2023 and are subject to change at the discretion of the MVEDGE Loan Committee.

COMMUNITY INVOLVEMENT

Borrowers who are enrolled in the BCP need to submit a copy of the NYS-required documentation to the MVEDGE. No additional community involvement work will be required. For projects not in the BCP, a community involvement plan must be developed and implemented. Costs associated with meeting community involvement requirements are an eligible use of loan funds.

CONTACT INFORMATION

For further information and assistance, please contact Jeff Rehler, MVEDGE Planning & Development, at 315-356-5517 or by email at jrehler@mvedge.org.