

To be used for (post award) site eligibility determinations under community-wide Assessment Grants and RLF Grants.

EPA Brownfields Grants are available to eligible entities for assessment and cleanup of Brownfields sites (or to establish a Brownfields cleanup revolving loan program). However, grant funds are available only to parties who are NOT LEGALLY RESPONSIBLE FOR THE CONTAMINATION. This checklist is based on the published proposal guidelines and is meant as a tool to help EPA staff make (post award) site eligibility determinations. This checklist cannot summarize all potential issues. For a more complete discussion please refer to the Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund and Cleanup Grants at: <http://www.epa.gov/oswer/docs/grants/epa-oswer-obcr-07-01.pdf>. Nothing in this checklist is intended to supplement or supersede the Proposal Guidelines or applicable law.

The grantee or RLF applicant must provide answers to the following questions to the best of their knowledge:

A. Grant Information

1. Grantee or RLF applicant Name:
2. Grant Number:
3. Grantee or RLF applicant Contact person:
4. Grant Type
 - 104(k) Community Wide Assessment
 - 104(k) RLF
5. Work to be conducted (please check all that apply):
 - Phase I Assessment
 - Phase II Assessment
 - Supplemental Phase II
 - RLF Loan
 - RLF Subgrant
6. Type of Site (check one):
 - Hazardous Substances contamination (including and controlled substances). (Continue to Section B).
 - Hazardous Substances contamination commingled with Petroleum. (Continue to Section B).
 - Mine scarred lands (Continue to Section B).
 - Petroleum or Petroleum products contamination (Petroleum is defined under CERCLA as crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under that section). (Site not eligible for Hazardous substance funding)

B. Site Information

1. Property Name:
2. Property Address:
3. Does the site meet the definition of a Brownfields Site? Is the site “real property, the expansion, redevelopment or reuse of which is complicated by the presence

or potential presence of hazardous substances, pollutants or contaminants”?

- Yes No *If No, the site is ineligible*

4. Provide a 1-2 paragraph explanation of how and when the site became contaminated including a description of any previous known uses and any known disposal of hazardous substances, pollutants or contaminants. If the land has been vacant for many years, indicate why you think the site is contaminated (If the site is mine scarred land please see description of “mine scarred lands” in proposal guidelines referenced on page 1). You may attach relevant pages of Phase I or other investigation reports, if available.

5. List known or suspected contaminant(s).

C. Sites Not Eligible for Funding By Statute

If the answer is Yes to any of the questions below (C1 –C3) the site is ineligible or may require a property specific determination as described in Section E.

1. Is the facility listed (or proposed for listing) on the National Priorities List?

- Yes *If Yes, the site is ineligible* No

2. Is the facility subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA?

- Yes (If Yes, the site is ineligible but may be re-considered for a Property Specific Determination. See Section E.)
 No

3. Is the facility subject to the jurisdiction, custody, or control of the US government? (*Question does not apply for land held in trust by the US government for an Indian tribe*).

- Yes *If Yes, the site is ineligible* No

D. Hazardous Site Eligibility – Is the Grantee/RLF Applicant a Responsible Party?

*The questions in this section will help EPA determine whether the Grantee (or the RLF borrower) is a **responsible party** at the site. If grantee or borrower is responsible for cleanup at the site – the site is not eligible for Brownfields funding.*

1. Does the grantee/RLF applicant currently own or has it ever owned the site?

- Yes No

2. Does the grantee/RLF applicant (or its tenants) currently operate or has it ever operated the site?

Yes No

3. Did any or all of the disposal of hazardous substances at the site occur AFTER the grantee/RLF applicant acquired or operated the property?

Yes No

Describe:

4. Has the grantee/RLF applicant (or its tenants) ever arranged for disposal or transported waste to the site?

- Yes *If Yes, the site is ineligible*
- Arranged for disposal
 - Transported waste to the site
- No

5. Does the grantee /RLF applicant have a relationship with the owner or any person responsible for cleanup the site (familial, contractual, financial or corporate).

Yes *If Yes, the site may be ineligible (describe below)* X No

Describe:

If the grantee/RLF applicant answers "yes" to any of above the criteria in Section D – the site may be ineligible.

Answer the following Questions #D7-D10 if the grantee/borrower owns the site.

6. Date Property was acquired: _____
(please provide month, date and year)

7. How did the Grantee/RLF *applicant* acquire the property?

- Tax Foreclosure, *skip D9 - continue to D10*
- Purchase
- Eminent Domain
- Donation
- Other (Explain):

8. Did the owner conduct due diligence or All Appropriate Inquiry (AAI) prior to acquiring property? AAI / ASTM E1527-05 is required after November 1, 2006. See 40 CFR Part 312, Standards and Practices for All Appropriate Inquiries, Final Rule.

Yes No *If No, the site is ineligible.*

Describe due diligence activities and/or provide date AAI Phase was completed:

9. Did the grantee/RLF *applicant* take reasonable steps with regard to the contamination at the site?

Yes No *If No, the site is ineligible.*

Describe:

“Reasonable steps with regard to contamination at the site” includes, as appropriate, stopping continuing releases, preventing threatened releases, and preventing or limiting human, environmental or natural resource exposure in to earlier hazardous substance releases. For more information see EPA’s March 6, 2003 “Common Elements” guidance See web link at:

<http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-elem-ref.pdf>

E. Sites Eligible for a Property Specific Determination by EPA

If the answer is Yes to any of the questions below (E1 –E7), a property specific determination is required. The grantee or RLF applicant will need to submit additional information. (See Appendix 4 of the Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund and Cleanup Grants.)

1. Is the site / facility subject to a planned or ongoing CERCLA removal action?
 Yes No
2. Has the site/facility been the subject of a unilateral administrative order, court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or 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 the site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h)) and has there been a corrective action permit or order issued or modified to require corrective measures?
 Yes No

4. Is the site/facility a land disposal unit that has submitted a RCRA closure notification under subtitle C of RCRA and is subject to closure requirements specified in a closure plan or permit?
- Yes No
5. Has the site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation under TSCA?
- Yes No
6. Has the site/facility received funding for remediation from the Federal Leaking Underground Storage Tank (LUST) Trust Fund?
- Yes No
7. Is the Site an Excluded RCRA Facility? 1) RCRA permitted facilities. 2) RCRA Interim status facilities requiring corrective action or to address contamination such as facilities under RCRA §3008(a), §3008(h) §3013 and §7003. 3) Facilities under administrative orders on consent or judicial consent decrees under RCRA or CERCLA that require corrective action or to address contamination and 4) Land disposal units that have notified EPA or an authorized state of their intent to close or that have closure plans or permits.
- Yes No

Because of the complexities of hazardous waste sites, consultation with legal counsel will be necessary. Your Project Officer will notify you of the site eligibility determination or if additional information is required.