

Berkshire Brownfields Resources Directory

A guide to grants, loans, tax incentives, liability protection, and technical assistance

BERKSHIRE REGIONAL PLANNING COMMISSION

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A guide to grants, loans, tax incentives, liability protection, and technical assistance

Within the Commonwealth of Massachusetts there is a great commitment toward the cleanup and redevelopment of brownfields properties as a way to stimulate the economy and promote environmental protection goals. While there is no formal definition of the term "brownfields" in Massachusetts, these properties often have certain characteristics in common: they are typically abandoned or for sale or lease; they typically have been used for commercial or industrial purposes; they may have been reported to the Massachusetts Department of Environmental Protection because contamination has been found; or they may not have been assessed due to fear of unknown contamination conditions. EPA defines the term "brownfield site" as 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.

The Berkshire Regional Planning Commission (BRPC) has prepared this directory to assist municipalities, property owners, and prospective purchasers in Berkshire County who are committed to the cleanup and redevelopment of brownfield sites. This directory is organized by category as follows: assessment, cleanup/remediation, grant, loan, tax incentive, liability protection, and technical assistance. As can be seen on the following tables an effort has been made to identify the eligible parties within each program that is included in the directory. This directory may best be utilized in electronic format as the page numbers in the table are linked and will assist the user to navigate to the programs that meet their needs and eligibility. In addition, the websites and emails are hyperlinked and can direct you to the specific webpages for each program. The websites displayed have been abbreviated to provide for a cleaner appearance within the directory.

BRPC will make every effort to update this directory on a regular basis. Please note the date that is included on the cover page and throughout the document. If using a print copy, please visit www.berkshireplanning.org to insure that you are using the most current version. Also, please note that certain programs have been denoted with the ⊗ symbol. This indicates that the program may not have been fully vetted as there is no clear point of contact that has been identified. Please remember that BRPC is a resource to you and we are here to help. If you need additional assistance or information with regard to any of these programs, please contact Melissa Provencher at (413) 442-1521 ext. 22 or at mprovencher@berkshireplanning.org.

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- ◐ public entities and/or non-profits
- ◐ specially designated communities
- all of the above
- municipalities
- ◐ property owners

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Eligibility Guidance - Please note that each program has specific eligibility requirements. See program guidance for more information.

- ☐ public entities and/or non-profits
- ☐ specially designated communities
- all of the above
- ☐ municipalities
- ☐ property owners

GRANTS

📍 Brownfields Economic Development Initiative (BEDI)

Administered By

U.S. Department of Housing and Urban Development (HUD)

Website

www.hud.gov

Contact

David Kaminsky, HUD's Office of Economic Development

Phone: (202) 402-4612

Email: David_Kaminsky@hud.gov

Purpose

The purpose of the BEDI program is to spur the return of brownfields to productive economic use through financial assistance to public entities in the redevelopment of brownfields, and enhance the security or improve the viability of a project financed with Section 108-guaranteed loan authority. Therefore BEDI grants must be used in conjunction with a new Section 108-guaranteed loan commitment.

Who is Eligible?

Units of General Local Government

Funding and/or Eligible Uses

BEDI is designed to assist grantees with the redevelopment of abandoned, idled and underused industrial and commercial facilities where expansion and redevelopment is burdened by **real or potential** environmental contamination. BEDI grant funds are primarily targeted for use with a particular emphasis upon the redevelopment of brownfields sites in economic development projects and the increase of economic opportunities for low-and moderate-income persons as part of the creation or retention of businesses, jobs and increases in the local tax base.

EPA Brownfields Assessment Grants

Administered By

US Environmental Protection Agency

Website

www.epa.gov

Contact

Chris Lombard

Phone: (617) 918-1305

Email: lombard.chris@epa.gov

Purpose

Assessment grants provide funding for a grant recipient to inventory, characterize, assess, and conduct planning and community involvement related to brownfield sites.

Who is Eligible?

The following information indicates what entities are eligible to apply for an assessment grant. Nonprofit organizations are not eligible to apply for an assessment grant.

- General Purpose Unit of Local Government. (For purposes of the brownfields grant program, EPA defines general purpose unit of local government as a “local government” as defined under 40 CFR Part 31.)
- Land Clearance Authority or other quasi-governmental entity that operates under the supervision and control of, or as an agent of, a general purpose unit of local government.
- Government Entity Created by State Legislature.
- Regional Council or group of General Purpose Units of Local Government.
- Redevelopment Agency that is chartered or otherwise sanctioned by a state.
- State.
- Indian Tribe other than in Alaska. (The exclusion of Alaskan tribes from brownfields grant eligibility is statutory at CERCLA §104(k)(1). Intertribal Consortia are eligible for funding in accordance with EPA’s policy for funding intertribal consortia published in the Federal Register on November 4, 2002, at 67 Fed. Reg. 67181. This policy also may be obtained from your Regional Brownfields Coordinator listed in Appendix 1.)
- Alaska Native Regional Corporation, Alaska Native Village Corporation, and Metlakatla Indian Community. (Alaska Native Regional Corporations and Alaska Native Village Corporations are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following.)

Funding and/or Eligible Uses

An eligible entity may apply for up to \$200,000 to assess a site contaminated by hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum) and up to \$200,000 to address a site contaminated by petroleum.

EPA Brownfields Cleanup Grants

Administered By

U.S. Environmental Protection Agency

Website

www.epa.gov

Contact

Jim Byrne

Phone: (617) 918-1389

Email: byrne.james@epa.gov

Purpose

Brownfields Cleanup grants provide funding for a grant recipient to carry out cleanup activities at brownfield sites. Funds may be used to address sites contaminated by petroleum and/or hazardous substances, pollutants, or contaminants (including hazardous substances co mingled with petroleum).

Who is Eligible?

In order to receive a Cleanup grant, the applicant must be the sole owner of the property that is the subject of its cleanup grant proposal. Eligible entities include: state, local, and tribal governments, with the exception of certain Indian tribes in Alaska; general purpose units of local government, land clearance authorities, or other quasi-governmental entities; regional council or redevelopment agencies; states or legislatures; or nonprofit organizations.

Funding and/or Eligible Uses

Cleanup Grants provide:

- Up to \$200,000 per site – limit of 3 sites per community.
- Cleanup Grants require a 20 percent cost share, which may be in the form of a contribution of money, labor, material, or services, and must be for eligible and allowable costs.

Cities and Towns Municipal Grants Program

Administered By

Massachusetts Department of Revenue

Website

www.mass.gov/dor/

Purpose

The Cities and Towns Municipal Grants Program was established in 1991 pursuant to M.G.L. c.21J and M.G.L. c.148 §37A. The purpose is to provide up to 50 percent reimbursement to local jurisdictions for costs they incur when removing and/or replacing underground storage tanks. Cities and towns must first remove and/or replace a tank at their own expense, then file a grant application request seeking reimbursement. Grants are awarded each year at the end of June.

Who is Eligible?

Cities and Towns

Funding and/or Eligible Uses

In general, the specific eligibility requirements are as follows:

- The grant is to be used solely for the removal and/or replacement of USTs only and not remediation.
- Only one grant application may be submitted per entity per year and must be limited to one location only.
- Applications must be received within 12 months of completion of the work for which the grant is sought.
- Grants are divided into four categories and may be subject to a rating system. Regulations cite 503 CMR 3.00.

Underground Storage Tank Petroleum Product Cleanup Fund

Administered By

Massachusetts Department of Revenue

Website

www.mass.gov/dor

Purpose

The Massachusetts Underground Storage Tank Program was established as the Massachusetts Underground Storage Tank Petroleum Product Cleanup Fund in 1991 by Massachusetts General Law Chapter 21J. Chapter 21J provides for the fund to be financed by annual tank registration fees and a per gallon fee imposed on the delivery of petroleum products to USTs. The purpose is to prevent the need for environmental cleanup actions and to expedite environmental cleanup actions by providing partial reimbursement to owners or operators of underground storage tank (UST) systems for costs, expenses and other obligations incurred as a result of releases of petroleum products from UST systems. The Program also allows for reimbursement for any claims for bodily injury, property damage, and damage to natural resources which are assessed against an owner or operator of a UST system.

Who is Eligible?

Dispensing facilities are eligible to receive reimbursement for work performed after April 1, 1991; marinas are eligible for work performed after June 30, 1992. Reimbursement is subject to a deductible and correlates with the number of UST systems owned by the claimant.

Funding and/or Eligible Uses

Owner/operators must be able to pay for the costs of damage to natural resources, personal injury, or property damage as a result of a leak. Financial responsibility may be demonstrated by any combination of the following:

- Private insurance
- Self insurance
- Guarantee
- Surety bond
- Letter of credit
- State assurance fund

Examples of allowable costs are:

- removal, treatment, transport, reuse, recycling and/or disposal of contaminated petroleum products;
- rental, lease, or purchase of remediation equipment (\$5,000 or greater);
- sampling and analysis of released petroleum product, air, groundwater, and soil.

Community Development Fund

Administered By

Massachusetts Department of Housing and Community Development (DHCD)

Website

www.mass.gov

Purpose

The Community Development Fund is a Community Development Block Grant program that supports revitalization efforts of cities and towns in order to address the needs of low- and moderate-income residents by supporting housing, community, and economic development activities in cities and towns throughout the Commonwealth.

Who is Eligible?

- Municipalities with a population under 50,000 that do not receive CDBG funds directly from the federal Department of Housing and Urban Development (HUD).
- Cities and towns are eligible to apply for CDF I and II (rather than individuals, families, nonprofits or developers).
- Applications can be submitted by individual communities or regionally by multiple communities with one lead community.

Funding and/or Eligible Uses

Provides grants to municipalities for planning, pre-development studies, property acquisition, site assessment, cleanup, demolition, and other activities. Cities and towns can apply to undertake housing, community and economic development projects, including architectural barrier removal, assistance to for-profit entities, commercial rehabilitation, demolition/clearance, housing rehabilitation, other housing (although not new construction of housing), infrastructure, micro-enterprise assistance, planning, public facilities, and public social services. If granted, funding is available for an 18-month project cycle.

Economic Development Fund

Administered By

Massachusetts Department of Housing and Community Development (DHCD)

Website

www.mass.gov

Purpose

The Economic Development Fund, a component of the Massachusetts Community Development Block Grant Program (CDBG), provides funding for projects that create and/or retain jobs, improve the local and/or regional tax base, or otherwise enhance the quality of life in the community. This program is offered to local communities for industrial, commercial, service, and mixed-use projects. The program offers assistance in a variety of ways, depending on the nature of the proposed economic development project. Assistance may be in the form of grants to communities, loans to individual businesses and other entities, bridge financing, or Section 108 loan guarantees.

Who is Eligible?

- Municipalities with a population under 50,000; and
- Municipalities which do not receive CDBG funds directly from the federal Department of Housing and Urban Development

Funding and/or Eligible Uses

Provides grants to municipalities to support job creation. Eligible activities include: planning, pre-development studies, property acquisition, site assessment, cleanup, demolition and other activities. Businesses can be eligible for loans or grants through municipalities for real estate acquisition, and other related activities.

The maximum assistance per business is \$1,000,000 (up to \$500,000 each for loan and recapturable equity assistance), minimum \$100,000; these limits may be waived by the Director of DHCD.

The maximum Bridge Financing is \$2 million, minimum \$500,000; these limits may be waived by the Director of DHCD.

The maximum Section 108 assistance per business is \$5 million, minimum \$500,000; these limits may be waived by the Director of DHCD.

The maximum grant for a single community or regional application is \$1,000,000, minimum \$100,000; these limits may be waived by the Director of DHCD.

The maximum for planning activities is \$50,000 per application; this limit may not be waived.

Economic Development Loans to Individual Businesses and Other Entities

Loans and recapturable equity investments are available for gap financing in viable projects that are unable to move forward without federal funds. The program offers a creative and flexible approach to financing, and loan rates and terms are negotiated based on the needs of each borrower. The municipality applies to the Department of Housing and Community Development (DHCD) on behalf of a local business. If approved, DHCD awards a grant to the municipality, which then lends the funds to the business. Loans may be used for the purchase of equipment, acquisition of real estate, new construction and rehabilitation, working capital, and refinancing projects.

The program also provides Bridge Financing of up to \$2 million in short-term (eighteen months or less) loans to businesses. Bridge Financing is intended to bridge timing gaps for ready-to-go projects that meet CDBG requirements. Bridge Financing is accomplished by pledging committed funding resources, which will be received in exchange for receipt of a "bridge loan". All such loans must be supported by an unconditional demand letter of credit from a bank acceptable to DHCD.

Under Section 108 of the Housing and Community Development Act, the Program may also loan funds to assist revenue producing development activities undertaken by the municipality (infrastructure, housing) or by a business (economic development, housing). Section 108 loan funding is provided through the sale of bonds by the U. S. Department of Housing and Urban Development (HUD) to private investors. To protect the bondholders' investment, the Commonwealth pledges to HUD a portion of its annual Community Development Block Grant (CDBG) as a guaranteed source of loan repayment. HUD also requires additional security/collateral from local non-CDBG sources (usually business/project assets). For each project, the community and/or the private sector or non-profit entity must already have secured substantial private financing that is firm and documented. Projects which are speculative in nature or financially risky are not eligible.

Grants to Communities Are Available For:

Business Development: Technical assistance to small businesses; regional economic development loan funds; improvements to commercial and industrial properties; developing small business incubators; and building infrastructure to support economic growth.

Public Facilities: Economic development related acquisition, construction, and rehabilitation of buildings.

Infrastructure: In support of private development, to create or retain jobs, or that would otherwise lead to economic development.

Public Services: To increase economic opportunity for low- and moderate-income people through job placement and other employment services (examples include peer support programs, counseling, child care, transportation); grant funds may assist programs operated by communities, nonprofits or small businesses.

Pre-Development Planning Assistance: For project/site specific planning activities that will meet federal program criteria if implemented. As with all CDBG programs, Economic Development Fund projects must meet at least one of the following federal program criteria: benefit low- and moderate-income individuals, remove slums and blight, or address a critical community need.

🕒 Mini-Entitlement Program (MINIE)

Administered By

Massachusetts Department of Housing and Community Development (DHCD)

Website

www.mass.gov

Purpose

The Mini-Entitlement Program is a Community Development Block Grant (CDBG) program that supports revitalization efforts of cities and towns in order to address the needs of low- and moderate-income residents by supporting housing, community, and economic development activities in cities and towns throughout the Commonwealth. In FY 2004, twelve communities were designated by DHCD as eligible for the Mini-Entitlement Program based on demographic information.

Currently, Mini-Entitlement communities have the option of either applying non-competitively for a \$600,000 Mini-Entitlement grant or, alternately, applying competitively for up to \$800,000 (by utilizing the Community Development Fund criteria and application). Applicants must indicate on the application cover sheet which option they are selecting.

Who is Eligible?

“Mini-Entitlement” Communities

In FY 2004, the eligible communities were: Amesbury, Chelsea, Everett, Gardner, Greenfield, Marlborough, Methuen, North Adams, Northbridge, Revere, Southbridge, and West Springfield.

Funding and/or Eligible Uses

Provides grants for activities including planning, pre-development studies, property acquisitions, site assessment, cleanup and demolition. Cities and towns can apply for Mini-Entitlement funds to undertake housing, community and economic development projects, including architectural barrier removal, assistance to for-profit entities, commercial rehabilitation, demolition/clearance, housing rehabilitation, other housing (although not new construction of housing), infrastructure, micro-enterprise assistance, planning, public facilities, and public social services. If granted, funding is available for an 18-month project cycle.

The maximum grant award is \$600,000, or up to \$800,000 for those applying competitively. Additional limitations are outlined in the current year's application.

📍 Massachusetts Opportunity Relocation and Expansion (MORE) Jobs Capital Program

Administered By

Executive Office of Housing and Economic Development (EOHED)

Website

www.mass.gov/MOREJobs

Contact

morejobs@state.ma.us

Purpose

The Massachusetts Opportunity Relocation and Expansion (MORE) Jobs Capital Program provides grant funding for public infrastructure improvements needed to support business expansion in the Commonwealth of Massachusetts. The program stimulates job creation and economic growth across the state by providing the public infrastructure development companies need. MORE was established in an economic stimulus bill and signed into law on June 24, 2006.

Who is Eligible?

Eligible applicants are municipalities and for-profit entities throughout the Commonwealth of Massachusetts that are partnering with each other for the purposes of applying to the MORE Jobs program.

Funding and/or Eligible Uses

Offers competitive grants to municipalities in order to assist with the costs of developing publicly owned infrastructure that will directly support eligible economic development projects. Although initial environmental site assessment cannot be funded through MORE, site remediation and preparation work that is tied to infrastructure improvements is eligible for funding. Individual grant amounts will vary with each awarded project.

Berkshire Brownfields Assessment Program

Administered By

Berkshire Regional Planning Commission (BRPC)

Website

www.berkshireplanning.org/regional/brownfields.html

Contact

Melissa J. Provencher, Senior Planner/Brownfields Program Coordinator

Phone: (413) 442-1521 ext. 22

Email: mprovencher@berkshireplanning.org

Purpose

To assist public, private, and non-profit property owners with initial assessment activities to uncover possible contamination and develop remediation plans.

Who is Eligible?

Persons seeking to submit their site for consideration under the Berkshire Brownfield Assessment Program must first fill out a site profile form.

Funding and/or Eligible Uses

BRPC plans to apply for an additional \$400,000 from EPA in 2012 to inventory brownfield sites in Berkshire County and conduct Phase I, II & III Assessments.

LOANS

Brownfields Redevelopment Fund (BRF)

Administered By

MassDevelopment

Website

www.massdevelopment.com

Contact

Sean Calnan, Vice President Community Development

Phone: (413) 731-8848 Press 1 then 1331

Email: scalnan@massdevelopment.com

Purpose

To provide low-interest loans and grants for site assessment and cleanup to public and private sector parties.

Who is Eligible?

- Anyone who qualifies as an innocent owner or eligible person

- Within Economically Distressed Areas, and:
 - Significant economic results – i.e. new jobs, or
 - Contributing to economic or physical revitalization
- MassDevelopment may designate "Priority Projects" through the BRF. Eligibility for priority project designation is determined on a case by case basis by MassDevelopment
- The BRF assistance must be necessary to make the project financially feasible

Funding and/or Eligible Uses

Administered by MassDevelopment

- Site assessment funding up to \$100,000
- Remediation funding up to \$500,000
- Remediation and site assessment funding up to \$2 million for projects designated as "Priority Projects"

To qualify for BRF funding, a project has to be located in an Economically Distressed Area (EDA).

Clean Water State Revolving Fund (CWSRF)

Administered By

Massachusetts Department of Environmental Protection

Website

www.mass.gov/dep

Contact

Deirdre Cabral

Phone: (413) 755-2148

Email: Deirdre.Cabral@State.MA.US

Purpose

The CWSRF Program provides subsidized interest (2%) 20-year term loans for projects that protect or improve water quality.

Who is Eligible?

Any Massachusetts municipality, *district or authority* may apply and compete for this financing, during the annual solicitation period, which normally runs from June through mid-August.

Funding and/or Eligible Uses

Brownfield remediation projects are eligible for SRF financing, provided that the *applicant* can demonstrate an anticipated water quality benefit to the work.

Berkshire Brownfields Revolving Loan Fund

Administered By

Berkshire Regional Planning Commission

Website

www.berkshireplanning.org/regional/brownfields.html

Contact

Melissa Provencher, Senior Planner/Brownfields Program Coordinator

Phone: (413) 442-1521 ext. 22

Email: mprovencher@berkshireplanning.org

Purpose

- RLF is primarily a loan program – repayment is required
- Up to 50% of RLF funds may be awarded as grants to public or non-profit entities.
- RLF monies can only be used to pay for remediation/cleanup activities.
- A \$500 non-refundable application fee is due at time of application.

Who is Eligible?

- All real property is eligible for the RLF program
- Property must have contamination from Petroleum or Hazardous substance(s) greater than an applicable standard
- Borrowers must own the property or demonstrate a legal interest in the property
- Borrower must not be a Potentially Responsible Party (PRP)
- Borrower must demonstrate an ability to re-pay

Funding and/or Eligible Uses

- Environmental documentation is necessary – Phase I, Phase II, Remedial Action Plan (RAP), Asbestos Survey, Cleanup Plan and Cost Estimate, prepared by a License Site Professional
- Required to enroll in an applicable state environmental program
- Repayment terms are negotiated on a project by project basis
 - Deferment may be arranged: Maximum of 2 years
- Competitive market interest rate
- No Penalty for early payoff
- Funds can be used in combination with other financing sources
- Match required based on loan amount
- Disbursement of loan funds are through reimbursement process

TAX INCENTIVES

Brownfields Tax Incentive

Administered By

U.S. Environmental Protection Agency

Website

www.epa.gov/brownfields/tax/index.htm

Contact

U.S. EPA, Office of Brownfields and Land Revitalization

Amanda Sutton

Phone: (202) 566-2777

Email: sutton.amanda@EPA.GOV

Or

Kerry Bowie, MassDEP Brownfields Coordinator

Phone: (617) 556-1007

Email: Kerry.Bowie@state.ma.us

Purpose

Initially enacted in 1997 and extended through January 1, 2014, the Brownfields Tax Incentive encourages the cleanup and reuse of brownfields. Brownfields are properties where reuse is complicated by environmental contamination concerns. The Brownfields Tax Incentive provides the following advantages to taxpaying stakeholders conducting environmental cleanup at brownfields sites:

- Allows environmental cleanup costs at eligible properties to be fully deductible in the year incurred, rather than capitalized and spread over a period of years.
- Improvements in 2006 expanded the types of properties eligible for the incentive to include those with petroleum contamination.
- Previously filed tax returns can be amended to include deductions for past cleanup expenditures.

Who is Eligible?

The Brownfields Tax Incentive is applicable to properties that meet specific land use and contamination requirements.

Land use requirement - the property must either be held by the taxpayer incurring the eligible expenses for use in a trade or business or for the production of income; or, the property must be properly included in the taxpayer's inventory.

Contamination requirement - hazardous substances or petroleum must be present or potentially present on the property. Sites listed or proposed for listing on EPA's National Priorities List are not eligible for the tax incentive. Taxpayers must obtain a statement from a designated state agency verifying a property's eligibility for the tax incentive. State contacts can be found on EPA's Web site at www.epa.gov/brownfields.

Funding and/or Eligible Uses

In addition to extending the Brownfields Tax Incentive, amendments in December 2006 expanded its scope to allow the deduction of expenses for the cleanup of petroleum products (e.g., crude oil, crude oil condensates, and natural gasoline) that previously were ineligible. This new eligibility for petroleum products applies to cleanup expenses incurred from January 1, 2006 to the tax incentive's current expiration date of January 1, 2014.

Amended tax returns may be filed to deduct expenditures from prior tax years. IRS guidance indicates that such returns must be filed within three years after the date a corporation filed its original return, or within two years after the date a corporation paid the tax (if filing for a refund), whichever is later. The

IRS or a qualified tax professional should be consulted if there is any uncertainty as to whether prior tax year deductions are allowable.

Brownfields Credit For Rehabilitation of Contaminated Property

Administered By

Massachusetts Department of Revenue

Website

www.mass.gov/dor

Purpose

Taxpayers are allowed a credit against their tax liability for the costs incurred to rehabilitate contaminated property owned or leased for business purposes and located within an economically distressed area. The credit is calculated on Schedule BC - Brownfields Credit.

Who is Eligible?

- Corporate trust;
- Corporation included in a combined return;
- Corporation;
- Nonprofit organizations
- Partnership;
- S corporation;
- Sole proprietor; and
- Trust.

Recent legislation extends the Brownfields credit:

- Credit is available to nonprofit organizations;
- The time frame for eligibility for the credit has been extended to August 5, 2011;
- The time for incurring eligible costs that qualify for the credit is extended to January 1, 2012; and
- Credits may be transferred, sold or assigned.

Funding and/or Eligible Uses

The tax credit can be claimed for eligible property where all three conditions are met:

1. the property is owned or leased by the taxpayer for business purposes
2. the property has been reported to the Department of Environmental Protection (DEP)
3. the property is located in an economically distressed area. A list of economically distressed areas can be obtained from the Massachusetts Office of Business Development, One Ashburton Place, Room 2101, Boston, MA 02108. Tel: 617-788-3670 Toll Free outside of Massachusetts: 1-877-BIZTEAM.

Amount of the Credit for All Taxpayers, Including New Environmental Response Action Cut-off Date: In general, the amount of the credit varies according to the extent of the environmental remedy. Effective July 1, 2000, it is either 25% or 50% of certain environmental response and removal costs incurred between August 1, 1998 and January 1, 2012, provided that the taxpayer commences and diligently pursues an environmental response action before August 5, 2011. The

maximum amount of credit that may be taken in any taxable year may not exceed 50% of the tax liability for the taxable year.

Minimum Excise for Corporations: The credit may not reduce the corporate excise due below the minimum excise, currently \$456.

Maximum Amount of Credits, Carryover of the Credit: The maximum amount of credits, otherwise allowable in any one taxable year to a taxpayer, may not exceed fifty per cent of its excise. A taxpayer may carry over and apply to its excise for one or more of the next succeeding five taxable years, the portion of those credits, as reduced from year to year, not allowed.

Use with Other Brownfields Programs

Effective July 1, 2000, taxpayers may claim this credit even if they receive financial assistance from the Brownfields Development Fund or from the Redevelopment Access to Capital (RAC) Program. However, the amount of state funds received from either of these funds must be deducted from the expense base for which the credit is available.

Municipal Tax Abatement Program

Administered By

Massachusetts Department of Revenue

Website

www.mass.gov/dor

Purpose

This provision allows municipalities to adopt a by-law that enables them to negotiate back taxes on contaminated sites in exchange for commitment by a new owner to both cleanup and redevelopment.

Funding and/or Eligible Uses

The program allows municipalities to negotiate back taxes, including penalties and interest, with developers undertaking brownfield projects. A municipality must adopt a by-law before negotiating agreements with developers.

Economic Development Incentive Program (EDIP)

Administered By

Massachusetts Office of Business Development

Website

www.mass.gov

Contact

Annamarie Kersten, EDIP Director

Phone: (617) 973-8534

Email: annamarie.kersten@state.ma.us

Purpose

The Economic Development Incentive Program (EDIP) is a tax incentive program designed to stimulate business growth and foster job creation throughout the Commonwealth. Through this incentive program, a three way partnership is developed between the state, a growing company, and a municipality. Participating companies may receive state and local tax incentives in exchange for job creation and private investment commitments.

EDIP Provides tax relief financing up to 5% investment tax credit, 10% abandoned building tax deduction, and local real estate tax incentives such as Tax Increment Financing (TIF) or Special Tax Assessment (STA). Projects in approved areas can receive tax increment financing, an abandoned building tax deduction, and investment tax credits through this program.

Who is Eligible?

The prospective Certified Project must:

- Be expanding or locating in Massachusetts
- Be located in an ETA
- Be located within an EOA within the ETA
- Commit to a job creation schedule
- Commit to private investment within Massachusetts

Certified Projects in the EDIP may receive state tax incentives, including a 5% investment tax credit (known as the Economic Opportunity Area Credit) for qualifying tangible, depreciable assets.

- A 10% abandoned building tax deduction is available for costs associated with the renovation of an abandoned building. The abandoned building must have been at least 75% vacant for the last two years.
- Certified Projects in the EDIP qualify for municipal tax incentives including either a Special Tax Assessment or a Tax Increment Financing Agreement

Funding and/or Eligible Uses

An Economic Target Area (ETA) is three, or more contiguous census tracts, in one or more municipalities, meeting one of eleven statutory criteria for economic need. There are ETA locations throughout the Commonwealth. An ETA must first be approved by the local level, and then be presented to the EACC for approval.

An Economic Opportunity Area (EOA) is an area or several areas within a designated ETA of particular need and priority for economic development. These areas are selected by the individual communities, and must meet one of four statutory criteria for designation by the EACC.

After an ETA and an EOA have both been established, a growing company may apply for Certified Project status. A Certified Project is a business that is expanding its existing operations, relocating its operations, or building new facilities and creating permanent new jobs within an EOA.

Prospective candidates can work with respective Regional Directors of the Massachusetts Office of Business Development (MOBD) throughout the application process (including the process for ETA and EOA designation).

Historic Rehabilitation Tax Credit

Administered By

Massachusetts Historical Commission

Website

www.sec.state.ma.us/mhc

Purpose

Under the program a certified rehabilitation project on an income-producing property is eligible to receive up to 20% of the cost of certified rehabilitation expenditures in state tax credits. There is an annual cap, so there are selection criteria that ensure the funds are distributed to the projects that provide the most public benefit. The MHC certifies the projects and allocates available credits.

Who is Eligible?

Municipalities

Funding and/or Eligible Uses

A 20% tax credit is available for projects on the state Register of Historic Places that meet eligibility requirements. Brownfields such as old mills may qualify.

LIABILITY RELIEF

Brownfields Covenant Program

Administered By

Massachusetts Office of the Attorney General

Website

www.mass.gov

Contact

John Beling, Brownfields Unit Chief

Phone: (617) 727-2200, ext. 2423

Email: John.Beling@state.ma.us

Purpose

To provide liability relief to owners and operators of contaminated properties interested in cleanup and redevelopment opportunities

Who is Eligible?

Owners and operators, including cities and towns, of contaminated sites where liability relief is not addressed by the liability endpoints established under other provisions of Chapter 21E (Mass Oil and Hazardous Material Release Prevention and Response Act)

Funding and/or Eligible Uses

Cleanup and reuse of complex or difficult sites where redevelopment would not otherwise be possible.

Brownfields Redevelopment Access to Capital Program (BRAC)

Administered By

Massachusetts Business Development Corporation

Website

www.bdcnewengland.com

Contact

Tom Barry

Phone: (781) 928-1100 ext. 106

Email: tbarry@mass-business.com

Purpose

Assist parties who are cleaning up or redeveloping a Massachusetts Brownfield site by providing a reimbursement of up to 50% of the premium cost of environmental insurance.

Who is Eligible?

- Any individual or business who is using financing in connection with redeveloping or cleaning up a Massachusetts Brownfield site.
- Any City, Town, governmental subdivision or non-profit that is redeveloping or cleaning up a Massachusetts Brownfield site.
- Any institutional lender who is providing financing for the purchase, cleanup or redevelopment of a Massachusetts Brownfield site.

Funding and/or Eligible Uses

- BRAC backs private sector loans with environmental insurance
- Payment of up to 50% of the premium for environmental insurance
- Site assessment
- Site cleanup costs (in the event a remediation project is not completed)
- Loan guarantees
- Insurance premiums and excess deductibles

Liability Relief Provision of the Massachusetts Brownfields Act

Administered By

Massachusetts Department of Environmental Protection and Massachusetts Attorney General's Office

Website

www.mass.gov/dep

Contacts

Kerry Bowie, MassDEP Brownfields Coordinator

Phone: (617) 556-1007
Email: Kerry.Bowie@state.ma.us

John Beling, Attorney General's Office
Phone: (617) 727-2200, ext. 2423
Email: John.Beling@state.ma.us

Purpose

Provides liability protection for several types of parties involved in brownfields projects, including: owners/operators, down gradient property owners, tenants, Redevelopment Authorities and Community Development Corporations, and secured lenders. The Brownfields Covenant Not to Sue (CNTS) Program provides liability protection for more complicated projects.

The Brownfields Act provided liability protection for several stakeholders:

"Eligible" Owners and Operators: Limits liability for "eligible persons" once they meet MassDEP's cleanup standards for oil or hazardous material releases. Defines "eligible person" as an owner or operator who did not own or operate the property at the time of the release and who did not cause or contribute to the contamination at the property. Once a permanent solution or Remedy Operation Status is achieved, an eligible person is protected from Commonwealth claims for response action costs and from claims by third parties for contribution, response action costs and property damage under Chapter 21E and property damage under common law.

Downgradient Property Owners: Exempts certain owners and operators from liability for contamination that has migrated onto their property, provided they meet certain requirements specified in the law.

Tenants: Exempts certain tenants from operator liability if their tenancy began after the release was reported to MassDEP, if they did not cause or contribute to the contamination, and meet other requirements specified in the law.

Redevelopment Authorities and Community Development Corporations (CDCs): Exempts redevelopment agencies and authorities, CDCs, and Economic Development and Industrial Corporations (EDICs) from liability as long as they acquired the property after August 5, 1998 and meet other requirements specified in the law.

Secured Lenders: Replaced the "participation in management" liability standard with a causation standard and deleted the 5-year limit on the exemption after the secured lender takes ownership or possession of the property, provided they seek to divest of the property and meet other requirements specified in the law.

TECHNICAL ASSISTANCE

Targeted Brownfields Assessment Program

Administered By

U.S. Environmental Protection Agency

Website

www.epa.gov

Contact

Alan Peterson, EPA Targeted Brownfields Assessment Program Lead

Phone: (617) 918-1022

Email: peterson.alan@epa.gov

Purpose

EPA New England has initiated a regional program aimed at helping municipalities and non-profits partnered with municipalities redevelop contaminated parcels in their communities. Under this program, EPA New England is conducting Targeted Brownfields Assessments (TBAs) at brownfields sites throughout the six New England states. The purpose of a TBA is to minimize the uncertainties surrounding the actual or perceived contamination associated with these sites.

Who is Eligible?

EPA is offering assistance in the form of a TBA to public entities (e.g., municipalities, regional planning commissions) or non-profits who partner with a public entity. It is important that the applicant currently have redevelopment plans for the contaminated property. The applicant should apply on behalf of a specific site which it currently owns or can obtain ownership through some other means (e.g. tax foreclosure). If the site is currently not owned by the applicant, the site should be abandoned. An abandoned site for the purposes of this program is a site where the current owner has shown no interest in the property, has not paid taxes on the property, and does not have the resources to conduct the required site assessment work. Sites where the applicant could be considered a responsible party for the contamination on the site are not eligible for assistance under this program. Additionally, this program is not intended to assist private parties in assessing and cleaning up sites for redevelopment.

Funding and/or Eligible Uses

A TBA may encompass one or more of the following activities:

1. An ASTM Phase I, which includes a background and historical investigation and site inspection
2. A full site assessment, including sampling activities to identify types and concentrations of contaminants and the areas of contamination that must be cleaned up; and
3. The determination of how much more investigation is needed and/or the establishment of cleanup options and cost estimates based on future uses and redevelopment plans.

The TBA program works closely with your state environmental agency. EPA's goal is a seamless transition into the state cleanup program, if necessary. TBAs are considered a grant of services and are conducted by environmental consultants currently under contract with EPA. The cost of these assessments ranges between \$50,000-\$100,000. It is also important to note that this program does not provide assistance to conduct site cleanup or building demolition activities.

MassDEP Assessment/Cleanup Grant of Service

Administered By

Massachusetts Department of Environmental Protection (MassDEP)

Website

www.mass.gov/dep

Purpose

MassDEP has limited funding through EPA to perform site assessments and cleanups at brownfield properties on behalf of municipal and non-profit entities. MassDEP uses state contractors to do this work rather than granting this funding directly to the community or non-profit.

Who is Eligible?

Municipal and Non-profits

Funding and/or Eligible Uses

Site assessments and cleanups conducted by MassDEP's own state contractors.

MassDEP Technical Assistance Grants

Administered By

Massachusetts Department of Environmental Protection (MassDEP)

Website

www.mass.gov/dep

Contact

Kerry Bowie, MassDEP Brownfields Coordinator

Phone: (617) 556-1007

Email: Kerry.Bowie@state.ma.us

Purpose

MassDEP offers grants of up to \$10,000 that are competitively awarded to selected communities and citizen groups to provide expert advice and public education about hazardous waste site cleanup activities.

Who is Eligible?

Communities and Citizen Groups

Funding and/or Eligible Uses

Typically these grants are used by communities to monitor cleanup activities being conducted by private parties. MassDEP Technical Assistance Grants cannot be for a site that the applicant, particularly the municipally, owns. These grants cannot be used to do site assessment or cleanup work.