

NJEDA Brownfield Loan Program FAQs

<u>Question</u>	<u>Answer</u>
GENERAL Questions	
General 1. When is the application due?	Applications for the Brownfields Loan Program must be received by the NJEDA no later than <u>Tuesday, April 13, 2021</u> . Late applications will not be considered.
General 2. How do I access the application?	Visit https://application.njeda.com/BrownfieldsLoan for the application.
General 3. Is there an application fee?	Yes. The application fee is \$2,500. In addition, the program also includes a Commitment Fee: 0.875% of loan amount, and a closing fee of 0.875% of loan amount. The applicant will also be responsible for reimbursement for any third-party fees that NJEDA staff deems necessary and incurs during application review and prior to Board approval. Fees are non-refundable.
General 4. What is the maximum amount that an eligible entity can apply for? Is there a minimum amount?	The maximum loan amount is \$5,000,000. The minimum loan amount is \$100,000.
General 5. Will this be an annual program?	The program is currently only accepting applications for 2021. Subsequent solicitation periods will depend on the success of the program and budgetary constraints.
General 6. If a complete application is not approved in the \$15M initial allotment, will it be considered in any renewal/replenishment of the funding in subsequent rounds?	Applications that meet all eligibility criteria under the program, that have received at least a minimum score based upon the program's scoring criteria but have not ranked sufficiently high as to be eligible for available program funding will be categorized as "Waitlisted". Waitlisted applicants will be considered for award only if higher scoring applicants in this round are declined or deemed incomplete during the financial analysis review. All applications will be considered for this current solicitation period only.

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<p>General 7. Will there be an on-line update available to inform the developer community how fully subscribed the program is at any given time?</p>	<p>No. Because this program is not offered on a first-come, first served basis, but rather it is based on a scoring system, the status of how fully subscribed the program is will not be known until after the application closing date.</p>
<p>General 8. Can the brownfield loan program be layered with other programs, particularly the new Brownfield Redevelopment Incentive in the newly enacted Economic Recovery Act?</p>	<p>Eligible costs must not be duplicative of other approved State or Federal grants previously awarded and must be associated with the remediation project.</p> <p>Projects previously approved for reimbursement through the NJEDA's Brownfields and Contaminated Site Remediation Reimbursement Program are not eligible for the Brownfield Loan Program. Projects that have not received any assistance to date are not precluded from applying for and receiving an NJEDA Brownfields loan and reimbursement through the Brownfields and Contaminated Site Remediation Program, so long as the loan is not used for reimbursement assistance.</p> <p>Projects previously approved under the Hazardous Discharge Site Remediation Fund (HDSRF) cannot use Brownfields Loan financing for the same uses as the HDSRF funding. Projects that have received HDSRF funding are eligible, so long as the loan is not used for reimbursement assistance.</p> <p>The NJEDA is currently developing the program for the Brownfield Redevelopment Incentive under the newly enacted Economic Recovery Act. Therefore, we are not able to make a determination until those rules are enacted.</p>
<p>General 9. Do you think the Economic Recovery Act rules will be enacted prior to April 13, 2021?</p>	<p>The NJEDA is currently developing the program for the Brownfield Redevelopment Incentive under the newly enacted Economic Recovery Act. A timeline for publication of these rules has not yet been established.</p>

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<p>General 10. If the Economic Recovery Act rules are not enacted prior to April 13, 2021, can a company apply for the loan on or before April 13, 2021 and once the rules are enacted if it is determined that a company cannot apply for both and the company would rather apply for the tax credits, can a company then withdraw from the loan program to apply for the tax credits?</p>	<p>Yes, we provide the opportunity to withdraw from the Brownfield Loan Program up until Closing. However, please note that fees, including the application fee, are non-refundable.</p>
<p>General 11. Can you submit multiple applications for different projects?</p>	<p>Yes.</p>
<p>General 12. If my application for a loan is denied, is there a process for me to appeal that decision?</p>	<p>An applicant has a right to appeal the declination of its Brownfields Loan application. An appeal must be submitted to brownfieldsloan@njeda.com within ten (10) business days of receiving written notice of the declination. The appeal must be in writing and include certain information to be deemed complete. It must identify the applicant that is submitting the appeal; it must identify the decision being appealed; it must specify all grounds for the appeal and all arguments, materials and/or documents that support the appeal; and it should indicate whether an oral presentation is requested, and if so, the reason for the oral presentation.</p> <p>A hearing officer will be assigned and will decide whether an oral presentation is appropriate under the circumstances. The hearing officer will review all documentation and any oral presentations and make a recommendation to the NJEDA Board. The Board serves as the final decision-maker. Pursuant to NJEDA policy, an applicant who appeals from a Board decision may appear and speak to the Board before the Board votes on the appeal. After that vote, if the applicant is dissatisfied with the Board's final administrative decision, it may appeal to the Appellate Division of the Superior Court of New Jersey, pursuant to the Rules of Court.</p>

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<p>General 13. Where can I get a copy of the presentation from the January 14, 2021 informational webinar?</p> <p>Where can I get a copy of the March 17, 2021 information webinar.</p>	<p>The January 14, 2021 presentation is available on the NJEDA website. https://njeda.wpengine.com/wp-content/uploads/2021/02/Brownfields-Loan-Webinar-Deck-2021-01-14-2.pdf</p> <p>A recording of the January 14, 2021 webinar is available here: https://www.youtube.com/watch?v=OyWmrk1dZxk</p> <p>The March 17, 2021 presentation is available on the NJEDA website: https://1e7pr71cey5c3ol2neoaoz31-wpengine.netdna-ssl.com/wp-content/uploads/2021/03/Brownfields-Loan-Webinar-Deck-Limbrick-2021-03-17.pdf</p> <p>A recording of the March 17, 2021 webinar is available here: https://youtu.be/1INzaKIFpdA</p>
<p>General 14. What does “completion of remediation” mean, with regard to NJEDA’s retainage of the final loan disbursement?</p>	<p>The Brownfield Loan Program rules specify that the borrower, prior to final disbursement, must “provide evidence that the remediation project is completed. There shall be no requirement for the applicant to complete the redevelopment project.” There will be retainage of up to 10% of the total loan amount that will not be fully disbursed until project is issued a no further action letter or response action outcome (RAO) (for site remediation), or corresponding document from the appropriate authority evidencing completion of remediation (for structural remediation). If the RAO is not an “entire site” RAO, the RAO should address the Areas of Concern and the remediation that was funded by the Brownfield Loan Program. Restricted use, Limited Resisted use, and Unrestricted Use RAOs are acceptable under this program.</p>
<p>General 15. What is the timeline for review and approval of loan applications?</p>	<p>We do not have a specific timeframe for approval and/or denial of applications. However, based on the steps involved in reviewing, scoring, ranking, and underwriting the loan applications, the NJEDA anticipates that loans will be presented to the Board for a vote of approval beginning in the fall of 2021.</p>
<p>General 16. How many applications do you expect to receive? / How many applications have you received?</p>	<p>We believe the \$15 million allocation for this program will be sufficient to catalyze a high number of projects, but we do not have a specific number of projects we expect to finance through the program.</p> <p>As the competition is currently open, we are not releasing the number of applications received.</p>

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<p>General 17. What is the appeals process?</p>	<p>An applicant has a right to appeal the declination of its Brownfields Loan application. An appeal must be submitted to brownfieldsloan@njeda.com within ten (10) business days of receiving written notice of the declination. The appeal must be in writing and include certain information to be deemed complete. It must identify the applicant that is submitting the appeal; it must identify the decision being appealed; it must specify all grounds for the appeal and all arguments, materials and/or documents that support the appeal; and it should indicate whether an oral presentation is requested, and if so, the reason for the oral presentation.</p> <p>A hearing officer will be assigned and will decide whether an oral presentation is appropriate under the circumstances. The hearing officer will review all documentation and any oral presentations and make a recommendation to the NJEDA Board. The Board serves as the final decision-maker. Pursuant to NJEDA policy, an applicant who appeals from a Board decision may appear and speak to the Board before the Board votes on the appeal. After that vote, if the applicant is dissatisfied with the Board’s final administrative decision, it may appeal to the Appellate Division of the Superior Court of New Jersey, pursuant to the Rules of Court.</p>
<p>General 18. Can a consultant apply, on behalf of an applicant?</p>	<p>While a consultant can assist with the application, the applicant is solely responsible for its contents and will need to certify the application for submission.</p>
<p>General 19. How long does it take to complete the application?</p>	<p>While we are not able to advise applicants on how long it will take to complete the application, downloading the Brownfield Loan Program Application Checklist, along with the sample draft application on the NJEDA website, will allow applicants to see what types of questions will be asked and the information that will be required.</p>
<p>General 20. Where can I find a listing of brownfield sites in New Jersey?</p>	<p>There is no comprehensive resource, at this time, for all brownfield data in the state. Brownfields SiteMart, lists some brownfield sites https://www.njbrownfieldsproperties.com/default.aspx, but information may not be up to date, so it is best to look at the creation and last updated fields.</p> <p>Some municipalities, working with Sustainable New Jersey, have identified and prioritized brownfields to be cleaned up, and the information is available here: https://www.sustainablejersey.com/certification/search-participating-municipalities-approved-actions/. Select “Brownfields” as the action and filter the data to only show brownfields.</p>

<u>Question</u>	<u>Answer</u>
<p>General 21. Is there a requirement that the loan recipient retain ownership of the subject property for a certain period of time?</p>	<p>No. There is no specific requirement for the loan recipient to retain ownership of the subject property for a specific period of time. However, prior to any transfer, the recipient would have to pay back the loan in full to release the lien on the property. In addition, the borrower must place a ten-year deed restriction on the property after completion of the remediation, and this restriction will survive transfer of ownership.</p>
<p>General 22. I have a question that is not covered in this document. How can I get a response?</p>	<p>NJEDA will accept written questions from potential applicants via email only at brownfieldsloan@njeda.com. All questions must be submitted by Thursday, March 25, 2021, at 5:00 pm. The subject of the email should read "Question – Brownfields Loan Program". Phone calls/faxes shall not be accepted. All questions and answers will be posted on the NJEDA website for all applicants to view.</p>

<u>Question</u>	<u>Answer</u>
TERMS & CONDITIONS	
T&C 1. What is the term of the loan?	10 years. Full repayment of the loan is due at the earlier of the end of the loan term or upon the borrower's closing of construction financing.
T&C 2. I believe that you said the brownfield loan has to be repaid when closing on the construction loan. Please confirm.	Full repayment of the loan is due at the end of the loan term or upon the applicant's closing of construction financing
T&C 3. Will my finished project be deed restricted?	The borrower is obligated to place a deed restriction on the property for 10 years after completion of the remediation on the project. The deed restriction requires that the redevelopment be consistent with the proposed end-use and factors considered at time of application for eligibility and interest rate reductions.
T&C 4. For the deed restriction, does that only apply to properties that want to take advantage of the additional interest rate reduction which reduction is tied to the type of use of the property or all applications?	The deed restriction requires the redevelopment to be consistent with the proposed end-use and factors considered at time of application for eligibility and interest rate reduction. This requirement applies to all projects under this program, whether or not the applicant may seek an interest rate reduction. The deed restriction applies to the entire project site.
T&C 5. If the property use was to change, is there a process that dictates how you go about facilitating that?	No. NJEDA expects the end result of the project to be what was indicated in the application. Furthermore, NJEDA requires borrowers to record a ten year deed restriction based upon the proposed end use.

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<p>T&C 6. How will the NJEDA obtain a lien on the property, if there is already a lien on the site for repayment of cleanup work by a state or federal agency?</p>	<p>The brownfield site, in a remediated condition, must have an appraised value equal to or greater than 100 percent of all debt financing, including the requested Brownfields loan amount, unless the applicant can demonstrate other sources of collateral to the NJEDA's satisfaction.</p> <p>Collateral taken under this program will be a lien on the property financed, subordinated to any existing purchase mortgage.</p> <p>It is anticipated that in some cases the applicant may not be the owner of the property to be remediated using financing under the Brownfield Loan Program. The owner of the property may be an individual or legal entity which has entered into a legal agreement with the applicant that provides for the remediation of the property. In these cases, the NJEDA may require a personal or corporate guarantee, whichever is applicable, from the current owner(s), in addition to a mortgage. That guarantee will be limited to their ownership position in the property.</p>
<p>T&C 7. When does interest begin to accrue? When the funds are drawn down or when the project is completed?</p>	<p>Interest begins to accrue on the loan proceeds disbursed after closing.</p> <p>Principal and interest payments will be deferred for the first two years. Interest during this two-year period will accrue and be capitalized onto the principal balance of the loan. Then, interest only payments for years three and four, followed by full amortization of the principal balance for the remaining term.</p>
<p>T&C 8. Is the brownfield loan project subject to the NJEDA's Affirmative Action and Prevailing Wage requirements?</p>	<p>Yes. Prevailing wage and affirmative action requirements apply to both the remediation project and the redevelopment project and they also apply to subcontractors. Additionally, prior to closing on the loan, any and all construction contracts awarded in New Jersey that require payment of prevailing wage will be required to provide proof of valid Construction Contractor Registration Certification (CRC) and proof of participation if Registered Apprenticeship Program, if employing craftworkers. Information regarding this act can be found: https://www.nj.gov/labor/wagehour/regperm/pw_cont_req.html</p>
<p>T&C 9. Does Prevailing Wage apply to environmental investigations?</p>	<p>Yes. Environmental investigations qualify as "construction" or "alteration" work which includes drilling holes (including but not limited to: utilizing a hand auger to extend a boring into the subsurface, a shovel, or a post hole digger) for the collection of soil/groundwater/rock samples and/or remediation. Also included is the collection of vapor samples from subsurface soils or from inside a building, if done through the use of a drill or similar type of apparatus to drill a hole through the building foundation or into the ground for the collection of the samples.</p>

<u>Question</u>	<u>Answer</u>
T&C 10. If a municipality receives a loan, can it ultimately be assigned or re-assigned to a developer?	Loan assignments are not typically granted and are not permitted without prior written consent by NJEDA. The municipality may wish to consider including the developer as a co-borrower.

<u>Question</u>	<u>Answer</u>
ELIGIBILITY	
Eligibility 1. How do I know if my property is considered a brownfield and therefore eligible for this loan program?	The applicant must provide a report prepared by a Licensed Site Remediation Professional (LSRP) detailing that the site is a brownfield site that is known or suspected to have environmental contamination. For loan requests that include remediation work that is not under the jurisdiction of the New Jersey Department of Environmental Protection's (NJDEP's) Site Remediation Program (SRP) (such as demolition, abatement, and/or removal activities), the applicant must submit a report prepared by an NJ licensed Professional Engineer, an Asbestos Hazard Emergency Response Act (AHERA) certified professional, NJ certified Lead Inspector, Certified Industrial Hygienist, or other appropriate licensed /certified professional documenting that the site is a brownfield.
Eligibility 2. My project was previously approved under the Brownfields and Contaminated Site Remediation Reimbursement Program. Is it eligible under this Brownfields Loan Program?	No.
Eligibility 3. If I am responsible for the contamination, can I still apply for a loan?	No. The following are not eligible for this program: Individuals or entities responsible for, or individuals or entities who have common ownership or control with entities responsible for, any existing environmental contamination at the site or any individuals or entities that have indemnified a responsible party or a party who has common ownership or control with a responsible party. Please see the Brownfield Loan Certification for more information https://1e7pr71cey5c3ol2neoaoz31-wpengine.netdna-ssl.com/wp-content/uploads/2021/02/Brownfields-loan-Certification-Form-Printable-for-website-1.pdf
Eligibility 4. Can I use the loan for asbestos removal?	Yes
Eligibility 5. Can I use the loan for demolition?	Yes

<u>Question</u>	<u>Answer</u>
Eligibility 6. Can I use the loan for lead paint removal?	Yes
Eligibility 7. Does a long term lease meet the criterion for showing a path to site control?	Yes. A long-term lease may be utilized to satisfy the criterion for site control, so long as the lease allows for the applicant to undertake and complete the remediation. The duration of the lease must be for a sufficient length of time to complete the remediation activities proposed in the application.
Eligibility 8. What is the minimum required commercial component for mixed-use development if it is primarily residential? Is there a threshold for the commercial size in comparison to the residential?	<p>There are no specific percentages for the commercial or the residential components of the project if it is a mixed-use redevelopment.</p> <p>The commercial component of any mixed-use project that's predominately residential must be of a size that is supported by market needs.</p> <p>The non-residential component must remain non-residential for the duration of the loan and for the ten years the property is under deed restriction.</p>
Eligibility 9. Can the future use of the site be solely residential?	<p>No. The project cannot be 100% residential, but there can be a residential component if it is a mixed-use development.</p> <p>The commercial component of any mixed-use project that's predominately residential must be of a size that is supported by market needs.</p> <p>The non-residential component must remain non-residential for the duration of the loan and for the ten years the property is under deed restriction.</p>
Eligibility 10. Can the site be used for Community Solar?	Yes. Community Solar is an eligible use, as it is considered a manufacturing use under this program. All projects approved under this program must conform with the Brownfield Loan Program rules. N.J.A.C. 19:31-3.2(c)5, requires that "Future use of the site shall be commercial, including, but not limited to, manufacturing and retail, or mixed use."
Eligibility 11. Are non-profits eligible to apply?	Yes, non-profit entities are eligible for this program. Entities that adequately document their non-profit status earn additional points in the scoring evaluation process.

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<p>Eligibility 12. Can the funds be used to purchase a property?</p>	<p>No. The funds may not be used to purchase a property. Eligible uses of the funds are costs associated with the investigation, assessment, and remediation of a brownfield, including but not limited to:</p> <ul style="list-style-type: none"> • Soil, groundwater and infrastructure investigation • Assessment • Remediation • Abatement • Hazardous materials or waste disposal • Long-term groundwater or natural attenuation • Other forms of institutional controls • Attorney fees (but no more than 20% of the loan can be used for soft costs) • Planning, engineering and environmental consulting • Building and structural issues (including demolition, asbestos abatement, PCB removal, contaminated wood or paint removal or other infrastructure remedial activities) • Use of funds cannot be duplicative of other approved State or Federal grants previously awarded that would pay for the proposed use of funds (i.e. environmental studies and reports that are eligible under HDSRF)
<p>Eligibility 13. We are currently in the process of acquiring a former Brownfield property. Much of the remediation has already been completed however the building is still in need significant rehabilitation. For example, the roof has collapsed in part of the building damaging multiple walls. Would this project be eligible?</p>	<p>The Brownfield Loan program only funds remediation. Eligible activities include building and structural remediation, including demolition, asbestos abatement, PCB removal, contaminated wood or paint removal or other infrastructure remedial activities. Structural rehabilitation that is not related to remediation is not covered.</p>
<p>Eligibility 14. Do we need to identify the land and have a contracted sale first before applying to the Brownfield</p>	<p>Applicants must have a site identified to be eligible for the brownfield loan program and must be able to demonstrate site control or a path to site control. This could be demonstrated by providing:</p>

<u>Question</u>	<u>Answer</u>
<p>Redevelopment Loan Program?</p>	<ul style="list-style-type: none"> • An executed letter of intent signed by both the applicant and the current site owner. • A copy of the purchase contract for the proposed site as well as any financing agreements associated with the purchase. • A copy of deed (If property is owned by applicant). • A lease that is of sufficient length to undertake and complete the remediation activities proposed in the application.
<p>Eligibility 15. Does the brownfield site need to have a Development Plan already established?</p>	<p>Per N.J.A.C. 19:31-3.3(c)9, to be eligible for the loan, the completed applications must be accompanied by a plan for the redevelopment project. Specifically, the application should include the proposed reuse of the brownfield site and a description of how it relates to any applicable local redevelopment plan, zoning, and land use.</p> <p>Additionally, during the scoring evaluation process, points will be awarded based on the consistency of the proposed reuse with local redevelopment plans.</p>
<p>Eligibility 16. Does this loan assist with projects already set in motion or are they for projects that aren't finalized yet?</p>	<p>The program will recognize and reimburse for expenses made prior to loan execution up to 20% of the total loan amount, provided that these expenses otherwise adhere to the program's requirements.</p>

<u>Question</u>	<u>Answer</u>
Scoring and Evaluation	
S&E 1. Do you get any extra points (or deductions) if you are in a UEZ?	No.
S&E 2. Why would you give points to a site that has an environmental enforcement action against it?	NJEDA will be awarding points to sites without enforcement actions. Sites with enforcement actions will not receive points under the enforcement action scoring criterion.
S&E 3. How are the sustainability / resiliency features of a project considered in scoring?	<p>The scoring committee will evaluate the projects for the following:</p> <ul style="list-style-type: none"> • Does the redevelopment of the site include features that will promote or enhance walkability or bikeability? • Does the proposed project incorporate higher standards to address sea level rise, increased temperatures, changes in groundwater tables, increased rainfall intensity, or other climate impacts that may affect the performance of the site in the future? • Has the project demonstrated “sustainable” practices they will follow during the awarded phases of the project that could include incorporation of energy efficiency and or “green energy”? • Is the brownfield site located in a Planning Area 1 (Metropolitan) and within a one-half mile radius, with bicycle and pedestrian connectivity, to the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation?