

The Department of Environmental Quality's (DEQ) Brownfield Redevelopment staff, along with staff from the Michigan Economic Development Corporation's (MEDC) brownfield program, held workshops in early 2018 to help consultants and local government project managers better understand how to navigate the state's brownfield programs. The questions below were asked by audience members at the workshops, or in follow-up surveys completed by workshop attendees. Similar questions were combined, so these are not verbatim.

### **Brownfield Funding**

*Q: The uncertain availability of grant and loan money is frustrating. Is there an estimated date for new funding?*

A: The DEQ brownfield program receives \$5 million annually from the Refined Petroleum Fund (RPF) to use at sites where contamination comes from an underground storage tank. Unfortunately, funding for 201 related sites remains unknown at this point. Governor Snyder has proposed funding the cleanup program with an increase in the landfill tipping fee. A state senator has introduced legislation to increase the tipping fee, but uncertainty will likely remain until the end of this year when we anticipate that the legislature will decide on the best way to fund our program, whether it's the fee proposal or an alternate source of funding.

*Q: Is there a minimum and maximum DEQ brownfield grant / loan amount?*

A: Grants and loans cannot exceed \$1 million. More than one grant or loan may be awarded (therefore potentially more than \$1 million to a project) if the project has significant economic and environmental benefits. There is no limit on tax increment financing (TIF) approvals. There is no minimum grant or loan amount, but some smaller projects may not be worth the administrative hassle.

*Q: What is the difference between the way the money flows into a project from the DEQ vs. the MEDC?*

A: It depends on the source of funding more than the agency. Unless the costs are being paid with a DEQ loan, the expenses have to be paid up front by someone other than MEDC or DEQ.

- Under a DEQ brownfield grant, project expenses are incurred then reimbursed to the grantee quarterly.
- In a DEQ brownfield loan, dollars are released on approval of a work plan, so the money is available up front.
- Under a TIF brownfield plan, whether it's approved by DEQ, MEDC, or is local TIF only, expenses are reimbursed when the developer begins to pay the property taxes.

*Q: What other funding is available for brownfield projects, including projects like parks that don't have economic benefit?*

A: DEQ's [brownfield coordinators](#) can help find ways to pay for redevelopment costs. Please consult with our staff for help. There are a few sources available, including:

- Refined Petroleum Cleanup Funds
- EPA brownfield grants
- DEQ 128a site assessments
- A Michigan Natural Resources Trust Fund Grant (from the Department of Natural Resources) will pay for an environmental site assessment for a property that will be acquired with a grant, but not for due care.
- DEQ Non-Point Source grants
- DEQ Water Pollution Control Revolving Fund, better known as the State Revolving Fund
- MDOT Transportation Enhancement funding
- USDA Rural Development funding

### **DEQ Project Eligibility**

*Q: Does the property need to be owned by the developer before a grant or loan can be awarded?*

A: No. The property can be owned by anyone, even a liable party – more on this below. The owner could also be a local government, a land bank, a financial institution, or the developer.

*Q: Does a Phase I environmental assessment have to be completed before applying for a grant or loan?*

A: Not always. The DEQ brownfield program has grants and loans available for site assessments when the property isn't known to be contaminated. The property must have economic development potential and suspected contamination to qualify for a site assessment grant or a brownfield loan. Once the site assessment is completed and the project meets economic and environmental requirements, more grant or loan money can be awarded for response and due care activities, demolition, lead, asbestos, and mold abatement, and other necessary eligible activities.

*Q: A project that has "suspected" contamination is eligible for a site assessment grant or a brownfield loan. How do you define "suspected"?*

A: If a Phase I has been completed, it should include some Recognized Environmental Conditions that would indicate whether we could suspect the site is contaminated. If a Phase I hasn't been conducted, we'd look at the prior uses of the site to determine whether it would be reasonable to suspect that contamination may have occurred.

*Q: What other criteria (for example, walkability scores) do we use for grant approval?*

A: The primary criteria we use to evaluate grant projects are the economic and environmental benefits of the project. If we have competing projects that are about equal on

economic and environmental benefits and we can't fully fund both projects, we'd consider community benefits like walkability, placemaking, and the development's public good.

*Q: Is it ever too late to ask for a brownfield grant, loan or TIF? What if the response activities have already started?*

A: The law requires prior approval of grant and loan-eligible activities by the DEQ. This means that you have already been awarded funding, have submitted a work plan to DEQ, and the work plan has been approved. For Act 381 (the Brownfield Redevelopment Financing Act, 1996 PA 381, as amended), this means you have submitted an Act 381 work plan, and the work plan has been approved. It should be noted that there are several pre-development activities in Act 381 that do not require DEQ approval (see our Act 381 Guidance for more information).

It is possible to seek funding after a project has begun, provided the activities being proposed for funding are not started until after DEQ approval is obtained. Talk to your [brownfield coordinator](#) for more information.

*Q: What would disqualify a project from DEQ funding?*

A: A site that is not contaminated or a site in which the developer is responsible for causing the contamination would not qualify for a DEQ grant, loan, or TIF. A project that is already getting funding from another source for the same activities would also not be qualified.

The project activities must be eligible under Parts 201 and 213 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), the brownfield grant / loan statute (Part 196 of the NREPA), and / or TIF (Act 381). If they are not, the project would not be eligible for funding.

*Q: Can a grant or loan project qualify for funding if there is a liable party? If yes, why?*

A: The DEQ has statutory authority to award brownfield grants and loans when there is a liable party, under certain circumstances. For DEQ brownfield funding, liable party means the party responsible for an activity causing a release of a hazardous substance.

- If the liable party is not viable – the polluters may have gone bankrupt, gone out of business, died, or are otherwise not able to pay for cleanups – a brownfield grant or loan can be used for assessment, due care, and response activities. We typically determine viability by checking Dun and Bradstreet reports, meeting with the parties or their representatives, or asking them to provide documentation of their finances.
- If the liable party is the seller of the property to be redeveloped, a brownfield grant or loan can be used for assessment and due care activities. Response activities that exceed due care obligations are generally the responsibility of the liable party and not eligible for a brownfield grant or loan.
- If the liable party is neither the seller nor the developer of the property to be redeveloped (i.e., an unrelated third party), a brownfield grant can be used for

assessment and due care activities, and a brownfield loan may be used for assessment, due care, and response activities.

- If the liable party is the local unit of government, a brownfield loan may be used for assessment and due care activities only if the local unit of government provides a 50% match. A brownfield grant may not be used for any activities when the local unit of government is the liable party.
- If the liable party is the developer of the project, DEQ Brownfield funding may not be used for any activities.
- If a liable party can pay for response activities, we will work with them to clean up the site, instead of using public dollars.

*Q: What does “significant” economic benefit mean?*

A: Economic benefit means the permanent jobs that are created or retained, the capital invested, or the increased tax base in the county, city, village, or township where the project is located. The applicant should demonstrate how the permanent jobs created or retained, capital invested, and increased tax base results in significant local economic benefit. Criteria for “significant” is based, at least in part, on location – significant in Copper Harbor is probably not the same as significant in Detroit.

*Q: Does the economic benefit have to occur within a certain timeframe?*

A: We don’t have a specific timeframe for the development project, but we expect the applicant to submit a realistic schedule with the grant or loan application. If the development will not begin immediately or will be done in phases, we want to know, since it could affect how we package the project’s funding.

### **Brownfield Funding Approval and Award Process**

*Q: How do DEQ grant and loan applications and contracts get approved?*

A: After an application is received, a DEQ [brownfield coordinator](#) and a DEQ project manager review it. Depending on the project’s specifics, it may be reviewed by other staff with expertise in vapor intrusion or enforcement. After the reviews are complete, the brownfield coordinator drafts an approval package. The package goes through our chain of command – starting with the Brownfield Redevelopment Unit manager, to final approval by the DEQ deputy director. When the deputy director signs the package, the brownfield coordinator will send an award letter and contract to the grantee / borrower. When the contract is signed and returned to the DEQ, it goes to the Remediation and Redevelopment Division director for signature. After the contract is signed by the DEQ, the grantee / borrower can prepare a work plan to start work.

*Q: What are the local government’s financial obligations under a DEQ brownfield loan?*

A: Brownfield redevelopment grants and loans can only be awarded to a local unit of government, not a private party. The local government would be obligated to repay a loan, but the money can come from TIF or from the developer. The local government is required by statute to secure the loan, but there are several ways they can do that. If the project fails or

the TIF is less than expected, the local government is still required to repay the loan. We can work with communities to make payments easier, but if they do not make required loan payments we can collect on the loan security.

*Q: How long does it typically take to approve a DEQ grant or loan?*

A: The DEQ is statutorily required to make a decision on a grant or loan within 90 days of receipt of a complete application. If the application is incomplete, we notify the applicant immediately. However, we usually continue our review process while we wait for the missing information, so we don't hold up the grant or loan. The average time taken to approve a Brownfield grant or loan in 2017 was 65 days.

*Q: How long does Act 381 Work Plan approval typically take?*

A: The DEQ and MEDC are both required by law to respond to an administratively complete work plan within 60 days. The DEQ has responded to Act 381 Work Plans within an average of 42 days since 2012.

MEDC requires a draft work plan to be submitted through the [Community Assistance Team](#) (CA Team) or [Business Development Managers](#) (BDM). Once the draft plan has been vetted by MEDC leadership and work plan questions and issues are addressed, a final plan is submitted. The process from draft work plan submittal to the final response from MEDC typically takes between 60-90 days depending on the complexity and initial completeness of the submittal. However, each review (by either MEDC or DEQ) is different depending on the project's complexity and the work plan's completeness.

[DEQ](#) and [MEDC](#) staff are always available to work through Act 381 work plan approval questions with consultants and brownfield authorities.

*Q: When does the 60-day clock start for Act 381 Work Plan reviews?*

A: The DEQ's 60-day clock begins when the final, administratively complete work plan is received in our email box, [DEQBrownfields@michigan.gov](mailto:DEQBrownfields@michigan.gov). The MEDC's clock begins when staff receive a transmittal letter from the jurisdiction and determined that the work plan is administratively complete.

### **Project Administration**

*Q: Can consultants working on a DEQ-funded project mark up their subcontractor invoices to cover costs? How should invoices show the markup?*

A: Yes, we allow a 10% markup on subcontractor invoices. When a grant or loan payment request is submitted, the consultant's invoice should show the markup on the subcontractor invoice as a separate line item, and the subcontractor's invoice must be submitted as backup.

*Q: What is the difference between the 3% administration budget item and 5% for project oversight in the grant/loan application?*

A: Administering a brownfield redevelopment project should not be a hardship for a grantee or borrower. The 3% for administration allows a local government to charge the DEQ for grant/loan oversight, or to hire a consultant to administer the grant or loan. The Project Oversight budget is to hire an additional environmental consultant to ensure the proposed response activities are technically sound and budgets are reasonable. See table below for additional guidance.

Activity	Definition	Cap
Project Administration	Administration of a DEQ Brownfield Redevelopment Grant or Loan, including but not limited to preparing payment requests and progress reports for submittal to the DEQ, ensuring Grantee/Borrower compliance with terms and conditions of the grant and loan contracts, budget tracking, coordinating project activities and communications, and preparing final reports and other documentation for project closeout.	3% of grant/loan total  10% for areawide projects
Project Management	Activities associated with the technical aspect of the project, including but not limited to preparation of technical and design documents and work plans, bidding services, and subcontractor oversight and management.	No cap
Project Oversight	Activities performed by a consultant or staff of the Grantee/Borrower including technical review of work plans, meetings and communications of a technical nature related to the grant or loan, site inspections, and other technical oversight as needed. Project oversight is primarily technical in nature rather than administrative.	5% of grant/loan total
Other information	A grant/loan budget may include both Project Administration and Project Oversight budgets (up to a total of eight percent of the grant/loan amount).	

*Q: Do quarterly reports have to be submitted separately for loans and grants? Can they cover more than one quarter?*

A: A quarterly progress report must be submitted each quarter. This makes payments go more quickly. Separate reports should be submitted for grants and loans so that budgets can be accurately tracked and it is clear which expenses are grant and which are loan. We recently revised our [quarterly report / payment request form](#) (please note: this form can't be opened in Google Chrome. Please use Firefox or Explorer to open.).

*Q: Is there a way to speed up the timing on the release of the 10% retention?*

A: The DEQ holds 10% of a brownfield grant's balance from the final payment request to ensure we get all the required reports and other documents from the grantee. Delays in releasing the 10% retention are frequently the result of unsubmitted materials. When a project ends, the grant coordinator reviews the file to make sure we have all the required

documents and if any are missing, the coordinator will be in touch with the consultant and local contact to get the missing documents. Once we have all the documents, closeout shouldn't take long but has to be balanced against the needs of active projects, other program priorities, and fiscal year end deadlines. If unpaid retention is putting a financial burden on a consulting firm or a grantee, please let your [brownfield coordinator](#) know and we'll try to prioritize closeout.

### **Act 381 Implementation**

*Q: It is difficult to transfer formulas in the Act 381 Master TIF Table. Is there any way to simplify it?*

A: After this question was raised at a workshop, MEDC staff agreed to review the form. Stay tuned.

*Q: How is the Act 381 brownfield implementation cost different than the cost to develop a brownfield plan? Is this above and beyond the administrative fee?*

The statute creates categories for costs associated with creating an Act 381 brownfield plan, and costs associated with implementing it. Eligible activities to create a brownfield plan include developing and preparing the brownfield plan and work plan. Implementation costs are come after the brownfield plan or work plan, such as tracking and reporting project TIF. The eligible activities can be included in both DEQ and MEDC work plans.

*Q: When is a local government required to report a change in millage rates?*

A: When the millage change is 5% or more.

*Q: Where can I find information about how to complete the financial reporting required by Act 381?*

A: Please email your question to Rob Garza ([garzar8@michigan.org](mailto:garzar8@michigan.org)) or Lori Laperriere ([laperrierel@michigan.org](mailto:laperrierel@michigan.org)).

### **Eligible Activities**

*Q: Does the 50/50 guidance apply to all DEQ brownfield funding?*

A: The [50/50 guidance](#) says that DEQ funding for non-environmental costs (e.g., demolition, lead, asbestos, or mold abatement that is not a response activity) cannot exceed all funding for environmental costs. This ensures that non-environmental work is not the primary purpose for a DEQ-funded project. It applies to DEQ brownfield grants, loans, and DEQ TIF. Here's example of how a project budget might look under the 50/50 rule:

	DEQ grant, loan, or TIF	Other funding sources (developer, TIF, LUG)	Total
Environmental investigation, BEA, and due care plan	\$15,000		\$55,000
Contaminated soil transport and disposal	\$40,000		
Asbestos and lead paint abatement		\$20,000	\$75,000
Building demolition	\$55,000		

In the example, note that the two green-shaded environmental lines (\$55,000) total less than the amount for the blue-shaded asbestos and lead abatement and demolition (\$75,000). Under the 50/50 requirement, the abatement budget was moved into the “other funding sources” column because the non-environmental abatement and demolition can’t be more than the cost of the environmental response activities. In this budget, the DEQ’s share of environmental and non-environmental costs are equal (\$55,000 for environmental and non-environmental costs), and the excess must be paid from another funding source.

Other activities subject to the 50/50 requirement for grants and loans include disposal of solid waste and removal and disposal of lake or river sediments. Please communicate with your [brownfield coordinator](#) if you have project specific budget questions.

*Q: Do environmental costs incurred by the developer or other sources qualify under the 50/50 guidance?*

A: Any funding used for environmental activities on the project can count toward the 50 percent, including funding from the DEQ (such as a [DEQ 128a Site Assessment](#)), the EPA, the local government, or the developer. If the non-environmental costs, like demolition and abatement, exceed the environmental costs, the DEQ will pay up to the amount of the environmental costs (regardless of who pays the environmental costs) and the balance has to be paid from another funding source. Here’s another example budget:



	DEQ grant, loan, or TIF	Other funding sources – developer, EPA, LUG, other DEQ	Total
Environmental investigation, BEA, and due care plan		\$15,000	\$55,000
Contaminated soil transport and disposal	\$40,000		
Building demolition	\$55,000		\$55,000

In this example, the developer or another source paid for the environmental investigation, BEA, and due care plan. Since the environmental costs total \$55,000, the DEQ can pay for \$55,000 in non-environmental costs, but no more.

*Q: Does the 50/50 requirement apply to local TIF?*

A: No. The DEQ does not approve local TIF.

*Q: Is there any assistance for a redevelopment project that requires removal of asbestos-containing materials (ACM)?*

A: ACM abatement is eligible for DEQ brownfield grant, loan, and TIF provided it meets the 50/50 requirement. It should be noted that ACM abatement is also an MEDC-eligible activity under Act 381 and would not be subject to the 50/50 requirement if approved as an MSF activity rather than a DEQ activity.

*Q: Are deconstruction costs eligible?*

A: We have paid for deconstruction in past projects, but it is not common.

*Q: Do the same requirements (regarding eligible activities) apply to brownfield redevelopment grants and loans and RPF grants and loans?*

A: Yes.

*Q: Ubiquitous fill across a site is hard to characterize. What can you fund?*

A: At a minimum, the site must be a facility or suspected facility to qualify for DEQ funding. Because this issue is very site specific, contact a [brownfield coordinator](#) to help determine what may be eligible.

*Q: Would excavation be an eligible activity if there is source material in the area where foundation/basement will be located?*

A: Not unless the removal of the source area goes beyond what would normally be required for excavation required to develop the property.

*Q: Is transportation and disposal of contaminated soils for a redevelopment an eligible cost?*

A: Yes, if the property meets the definition of a facility and the soil is contaminated, transportation and disposal of soil that must be removed for the redevelopment is eligible under a brownfield grant, loan, or TIF.

*Q: Where does contaminated soil go?*

A: Contaminated soil that is taken off site goes to an appropriate landfill. Contaminated soils can also be managed on site.

*Q: Can a grant, loan or TIF pay for backfill in the case of unstable soil?*

A: It depends on whether the unstable soil is contaminated. We would not approve DEQ funding for backfill if the unstable soil does not exceed cleanup criteria. If the unstable soil is removed as an environmental activity, we could approve backfill. Typically, though, this is a Michigan Strategic Fund TIF-eligible activity.

*Q: What level of detail is needed for approval of VI?*

A: We will be preparing guidance to outline the process and information needed for approval. Pending guidance, please contact a [brownfield coordinator](#) for assistance.

*Q: Can a grant or loan pay for operation and maintenance (O&M) of a vapor mitigation system?*

A: Engineering, installation, and initial operation and testing of a vapor mitigation system is eligible, but ongoing O&M of a system cannot be approved under grant and loan. O&M is eligible for state or local TIF, however.

### **MEDC Brownfield Program**

*Q: Does the Michigan Economic Development Corporation (MEDC) have regional coordinators?*

A: Yes, they have regional CATeam representatives and BDMs. Check [www.miplace.org](http://www.miplace.org) for maps that show the regional coordinators for your area or find links on pages 5 and 11 in this document.

*Q: When is MEDC involved in a brownfield project?*

A: MEDC is only involved if requested. This could be when an Act 381 work plan is submitted for approval of TIF for non-environmental eligible activities, or when a CATeam or BDM member is on the project team to coordinate other incentives.

*Q: Can transformational brownfield plans include contiguous or adjacent properties?*

A: Yes, the adjacent and contiguous eligible property qualification is applied the same for transformational brownfield plans and traditional brownfield plans.

*Q: Where can I get help and information about transformational brownfield project incentives?*

A: Contact your region's CATeam member or visit [www.miplace.org](http://www.miplace.org). Transformational Brownfield Plan fact sheets, templates, and guidelines can be found within the Act 381 Incentive section.

### **Miscellaneous**

*Q: Is there a list of brownfields or contaminated sites?*

A: Yes, the DEQ maintains [a list of sites](#) we know are contaminated. The list is not comprehensive though – it does not include contaminated sites that have not been reported to the DEQ, and it does not include brownfields that might be obsolete or blighted but that are not known to be contaminated.

*Q: Is the [128a site assessment program](#) through the EPA or the DEQ?*

A: We have an EPA grant that enables the DEQ staff to perform the assessments.

*Q: Will MEDC or DEQ do workshops on more advanced funding topics?*

A: We don't have any planned at this time. However, survey respondents suggested topics like a deeper dive into brownfield TIF. Let us know what you'd like to see in an advanced workshop and where you are, and we'll see what we can do!

Other Brownfield Redevelopment Resources:

[DEQ website](#)

[DEQ Brownfield website](#)

[Brownfield Flip videos](#)

[Brownfield Grant, Loan, and Act 381 Fact Sheet](#)

[When to Use What and Where](#)

[Part 196 Legislative Changes](#)

[Act 381 Legislative Changes](#)

[Payment request / progress report form](#) and [instructions](#) (note: these forms can only be opened in Firefox and Explorer, not Chrome)

[DEQ Guidance summary](#)

[Act 381 Brownfield Plan, Work Plan, and Transformational Plan Templates](#)

[Transformational Brownfield Plan Fact Sheet, Program Guidelines, and Process Overview](#)

[Brownfield coordinator bios](#) and [map](#)

[CATeam map](#)

- [Business Development Managers map](#)
- [RRD Contacts map](#)
- [Brownfield Site Assessments](#)
- [Renewing Michigan's Environment fact sheet](#)
- [Renewing Michigan's Environment Funding](#)