

Brownfield Vetting Process

1, 2012	Oct 8	Oct 15	Oct 22	Oct 29	Nov 5	Nov 12	Nov 19
End Use Review Process							
	[Dark Blue Bar]		Letter of Interest to Jobs Ohio				
		[Blue Bar]		JobsOhio Review			
Project Review Process							
			[Red Bar]		[Green Bar]		
					Project Review & Analysis		
					[Orange Bar]		Letter of Intent to Fund
Required Application Process and Final COC Approval							

End Use Review Process

Letter of Interest to Jobs Ohio

10/08/2012 - 10/15/2012

Developer, end user or potential applicant submits a letter of Interest to the JobsOhio Network describing the proposed reuse of the brownfield property, investment in the new business opportunity, and number of jobs created or retained.

JobsOhio Review

10/15/2012 - 10/22/2012

JobsOhio reviews Letter of Interest, evaluates job impact, looks at industry type, reuse of property and purpose of new facility. Makes a recommendation that the project be considered for funding.

Project Review Process

PRAM Meeting

10/19/2012 - 10/29/2012

JobsOhio refers project to Office of Redevelopment (Office). The Office sends a letter requesting project environmental and redevelopment information and plans. After all environmental information is received, the Office will review the package in three business days and then schedule a project meeting.

Project Review & Analysis

10/29/2012 - 11/05/2012

7 business days after the project meeting, the Office of Redevelopment will issue a TERRA (Technical Environmental Remedial & Readiness Analysis) report to JobsOhio. This report will include information about the current environmental conditions at the site, the proposed remedy, whether the proposed remedy is likely to meet the project goals within 3 years, the associated costs for the remedy, and the readiness of the project to begin.

Letter of Intent to Fund

11/05/2012 - 11/12/2012

JobsOhio will review the TERRA report and determine if the project meets the guidelines for funding and the level and type of grant and loan funding which will be offered. The funding offer from JobsOhio will result in the Office of Redevelopment issuing a Letter of Intent to Fund.

Required Application Process and Final COC Approval

After receipt of the Letter of Intent to Fund, the applicant must perform the required ORC processes. Once complete the Council will meet monthly to review and approve applications. First meeting would be scheduled approximately March/April 2013.



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Introduction and Definitions

The Director of the Development Services Agency (Director) established ~~T~~the following policies ~~were established~~ for the Clean Ohio Revitalization Fund (~~Revitalization Fund~~) and the Clean Ohio Assistance Fund (collectively “Brownfield Fund”) pursuant to Ohio Revised Code (O.R.C.) Section 122.657. The Clean Ohio Council (Council) duly adopted the policies. The terms defined under O.R.C. Section 122.65 and the attached definitions section apply to these policies.

Section 1: Eligible Applicants

- 1.01 Eligible applicants for ~~Clean Ohio Revitalization Fund~~Brownfield Fund grants and loans are: townships, municipal corporations, counties, port authorities, and conservancy districts.
- 1.02 Non-profit organizations, for-profit organizations, park districts, and similar park authorities are eligible Development Partners if they have entered into an agreement with an applicant identified in Policy 1.01.
- 1.03 Eligible applicants for Assessment grant funds must be located in an eligible area which is identified as a distressed area, an inner city area, a labor surplus area or a situational distress area as defined in O.R.C section 122.65(H). A map of current Priority Investment Areas is available online: <http://clean.ohio.gov/BrownfieldRevitalization/BrownfieldRevitalizationMaps.htm>
- ~~4.03~~1.04 Applicants identified in Policy 1.01 shall be signatories on the ~~Revitalization Fund~~Brownfield Fund grant or loan agreement entered into with the Council or the Director and these entities. Parties identified in Policy 1.02 may not be signatories on the grant agreement.
- ~~1.05~~4 ~~Revitalization Fund~~Brownfield Fund grants and loans shall be disbursed by the ~~Ohio Department of Development~~Ohio Development Services Agency (~~Department~~ODSA) only to applicants identified in Policy 1.01, pursuant to a grant or loan agreement entered into between the Council or the Director and such applicants.
- ~~1.06~~5 Entities that caused or contributed to the contamination at the property are not an eligible development partner or applicant and may not enter into an agreement with a third party to apply on their behalf. All applicants identified in Policy 1.01 and all parties identified in Policy 1.02 must sign a “clean hands” affidavit.

Section 2: Eligible Properties

- 2.01 Properties are eligible only if they meet the definition of a brownfield.
- 2.02 Properties are eligible only if they meet the definition of industrial, commercial property, or institutional property.
- 2.03 The property may contain more than one parcel, providing that the parcels are contiguous. If a project contains more than one parcel, each parcel must meet the definition of commercial, industrial, or institutional property. Parcels separated only by a street, alley or railroad track are considered contiguous.
- 2.04 The applicant must demonstrate that it possesses all necessary legal access to the property to complete the project. If the property or any portions of the property are subject to a lease agreement, the application must include a copy of the lease agreement or other agreement that provides the applicant with legal access to complete the project.

~~2.05~~ Multiple Revitalization Fund grant applications submitted by either the same or different applicants that are located within close proximity must demonstrate that the projects are not related. Evidence to support that projects are separate may include the following different characteristics: project inception, development partners, investors, certified professionals, type and nature of match, strategic plan and proposed end use. The Council may request additional information from the applicant to clarify the type and nature of the proposed project.

~~2.06~~2.05 The property boundaries at the time the project Cleanup or Assessment is completed must be identical to the property boundaries identified in the application.

~~2.07~~2.06 For applicants requesting funds to complete Cleanup and the party who caused or contributed to the contamination is the property owner, a purchase agreement transferring the property to the applicant or a non-liable third party must be included in the application for funding.

2.07 An ~~A~~ applicants ~~may not~~ applying for ~~Revitalization Funds to conduct~~ funds to complete Cleanup ~~for a property at which the~~ if party entity that caused or contributed to the contamination is currently operating and/or will continue to operate.

2.08 An applicant applying for funds to complete Assessment and the party who may have caused or contributed to the contamination is still operating on the property must include an option to purchase for the property that does not expire until after the Grant Completion Date, and a proposed redevelopment plan for the property. The option shall be for the applicant or a non-related third party to purchase the property.

Section 3: Eligible Costs

~~Activities eligible for Revitalization Fund grants and loans are those that meet the definition of Cleanup.~~

~~3.021~~ All cleanup activities (including acquisition and infrastructure) are eligible costs for projects with a known end use that are utilizing the ~~Known End User Track of the application.~~ Activities eligible for Brownfield Fund grants and loans are those that meet the definition of Assessment and Cleanup.

- The maximum application request for Assessment grant is \$200,000;
- The maximum application request for a Cleanup grant is \$1,000,000

3.02 Costs for a risk assessment are eligible costs, unless a risk assessment was previously funded under ~~the Clean Ohio Assistance Fund or Revitalization Fund~~ Brownfield Fund Grant for all or a portion of the property.

~~3.03~~ ~~Removal and disposal of Regulated Asbestos Containing Material (RACM) are eligible costs.~~

~~3.04~~ Property acquisition and the installation of new infrastructure or upgrading or replacing existing infrastructure are not eligible costs for Assessment projects ~~utilizing the Redevelopment Ready Track of the application.~~

~~3.045~~ The cost of employing a Certified Professional is an eligible cost.

~~3.056~~ Clearance activities are not eligible costs.

3.067 Recipients of ~~Revitalization Fund~~ Brownfield Fund grants or loans may not use those funds for indirect and/or administrative costs, which include but are not limited to: application preparation, compliance with public participation requirements, legal counsel related to the application and/or project implementation, consulting fees related to compliance with applicable local, state, and federal laws, rules and policies governing the project and/or grant agreement.

3.078 Project costs defined as markup are not eligible costs. The legislation governing the Clean Ohio program instructs the ~~Department~~ ODSA to make payments “only to pay the costs of the actual Cleanup of a brownfield,” (O.R.C. 122.658 (D)).

3.089 Costs for eligible activities will be ~~reimbursed~~ disbursed based upon the submission of the required documents to the ~~Department~~ ODSA.

3.409 Tire removal and disposal are not eligible costs.

3.104 Assessment. ~~R~~emoval of BUSTR (State Fire Marshal Bureau of Underground Storage Tank Regulation) regulated underground storage tanks, and remediation of petroleum leaks from such tanks are not eligible costs unless designated eligible for the Voluntary Action Program.

3.11 Costs for preparation of an Urban Setting Designation application are eligible costs. An eligibility determination must be conducted by the Certified Professional as part of the Assessment or Cleanup application.

3.12 The following policies are applicable to Cleanup projects:

(A) Removal and disposal of Regulated Asbestos Containing Material (RACM) are eligible costs.

~~(A)~~ (B) Only to the extent that hazardous substances or petroleum exceed applicable cleanup standards identified in the application will Cleanup be funded.

~~(B)~~ (C) After the No Further Action letter or the applicable project completion report is submitted costs incurred responding to the Ohio EPA’s comment letter and infrastructure are eligible costs.

~~(C)~~ (D) If the No Further Action letter or applicable project completion report are withdrawn, any costs associated with re-issuance of the No Further Action letter or applicable project completion report are not eligible costs. Furthermore, any costs related to responding to Ohio EPA’s comments to the re-issued No Further Action letter or applicable project completion report is not eligible costs.

~~(D)~~ (E) For property that is the subject of an existing covenant not to sue, costs for additional Cleanup are eligible costs. For the purposes of this Policy, the additional Cleanup must result in the property’s compliance with new applicable standards, which improve the applicable standards upon which the issuance of the existing covenant not to sue was based (e.g., allowing for a less restrictive land use or an alternate remedy not subject to operation or maintenance pursuant to O.A.C. Rule 3745-300-15).

~~(E)~~ (F) For property that is in remedial response enforcement or the subject of a remedial response investigation or Cleanup order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734, the costs for Cleanup and remediation may be eligible costs: a) if the property is an orphan property; b) if the property is not an orphan property, but only of the extent that the Cleanup costs are in addition to the requirements of the Preferred Plan or

Decision Document; or c) of the extent the Cleanup costs required by the Preferred Plan or Decision Document exceed the entity who caused or contributed to the contamination ability to pay.

~~(F)~~(G) For a property that is the subject of a solid waste permit or order or an open dumping order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734, the costs for Cleanup and remediation may be eligible costs: a) if the property is an orphan property; b) if the property is not an orphan property, but only of the extent that the Cleanup costs are in addition to the requirements of the permit or order as determined by the Ohio Environmental Protection Agency; or c) of the extent the Cleanup costs required by the permit or order exceed the entity who caused or contributed to the contamination ability to pay.

~~(G)~~(H) For a property that is the subject of a corrective action pursuant to a hazardous waste permit or order or subject to hazardous waste closure or generator closure pursuant to a hazardous waste permit or order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734, the costs for Cleanup and remediation may be eligible costs: a) if the property is an orphan property; b) if the property is not an orphan property, but only of the extent that the Cleanup costs are in addition to the requirements of the permit or order as determined by the Ohio Environmental Protection Agency; or c) to the extent the Cleanup costs required by the permit or order exceed the owner or operator's ability to pay.

~~(H)~~(I) Remedies addressing methane gas are not eligible costs, except to the extent that the methane is commingled with hazardous substances and petroleum.

~~(H)~~(J) Removal of solid waste is not an eligible cost, except to the extent that the solid waste is commingled with hazardous substances and petroleum.

~~(J)~~(K) The construction of new facilities on the property is not an eligible cost, except for facilities necessary for environmental Cleanup (e.g., monitoring wells, engineering controls, ground water pump and treat systems, etc.).

~~(K)~~(L) In accordance with O.R.C. Chapter 4115, prevailing wage rates may apply to all activities that are part of the Cleanup's total project costs.

Section 4: Project Costs

4.01 Applicants can only receive grant funds for eligible costs expended after the grant agreement has been executed.

4.02 The total project costs must be presented in the application in a unit and itemized cost form.

(A) For Cleanup, All subcontractor costs greater than \$25,000 must be accompanied by a third party cost estimate for the services that would be provided.

(A)(B) For Assessment, subcontractor costs greater than \$15,000 must be accompanied by a third party cost estimate for the services that would be provided.

~~(B)~~(C) The cost estimates must be signed by a Certified Professional for work to be completed under O.R.C. Chapter 3746, and an environmental/technical professional for work to be completed under O.R.C.

Chapter 3734, and must be accompanied by a statement certifying that the cost estimates are reasonable and necessary and are no higher than for like expenditures on like projects in Ohio.

- 4.03 For Cleanup projects ~~utilizing the Known End User Scoring Track of the application~~, property acquisition activities are eligible for a maximum of ~~25~~10 percent of the grant request and shall not exceed the current county auditor value for the property to be purchased.
- 4.04 For Cleanup projects ~~utilizing the Known End User Scoring Track of the application~~, infrastructure activities completed on the project property are eligible for a maximum of ~~10~~25 percent of the grant request. All grant funded infrastructure activities must be completed before the ~~No Further Action Date~~Grant Completion Date.
- 4.05 For Cleanup projects, a maximum of 15 percent of the total grant request may be used for professional service fees, also called soft costs. The percentage is a calculation of total soft costs divided by the total grant amount excluding acquisition and infrastructure. Additionally no more than \$25,000 of the total soft costs may be used for the preparation of bid specifications and bid process assistance. Hard costs include remediation and demolition activities, laboratory analytical services, drilling, surveying, disposal of derived wastes, travel and supplies related to the conducting work at the project property. Soft costs include any consultant time related to the project.
- 4.06 For Assessment projects, a minimum of 60% of the grant dollars must be allocated to field activities herein described as hard costs. Hard costs are defined as laboratory analytical services, drilling, surveying, disposal of derived wastes, travel, and supplies related to conducting work in the field at the project property. Soft costs are defined as any consultant time related to the project.
- ~~4.06~~4.07 The ~~Department~~ODSA retains the right to require any additional documentation in support of the reasonable and necessary cost estimates. The burden will be on the applicant to show, to the ~~Department's~~ODSA satisfaction, that the above standard has been met.
- ~~4.07~~4.08 Costs for activities utilizing ~~grant funds~~Brownfield Fund grant dollars cannot be incurred after the Grant Completion Date. All final requests for payment must be made within thirty (30) days from the Grant Completion Date.

Section 5: Matching Funds

- 5.01 In accordance with section 122.658 of the Revised Code, ~~applicants~~applications for Cleanup must ~~provide~~include Matching Funds:
- (A) Applicants must provide Matching Funds of at least 25 percent of the total project costs.
- (B) Acceptable sources of Matching Funds include: local government, state government (other than funds from ~~the Clean Ohio~~ Brownfield ~~programs~~Funds), federal government, and by for-profit or non-profit entities.
- (C) Applicants must maintain the required minimum percent of matching funds throughout the application review process including during revisions to the application described in ~~Section 8.09~~Item(D) of this Section.

~~(C)~~(D) The percent matching funds committed to the project at the time of application approval must be maintained throughout the grant agreement term. The Council may not award more than 75 percent of the estimated total project costs to the applicant in the form of a grant and/or loan. If at the conclusion of the project, financial accounting indicates that the actual cost is less than the estimated, the applicant shall refund to the Brownfield Fund the amount necessary to maintain funding percentages in the grant or loan agreement.

5.02 Applicants may include the following as eligible sources of Matching Funds:

- (A) Applicants may apply the cost of premiums for environmental insurance;
- (B) Applicants may apply the cost of property assessments;
- (C) Applicants may apply the cost of clearance activities;
- (D) Applicants may apply the cost of Cleanup;
- (E) Applicants may apply the cost of the project property acquisition;
- (F) Applicants may apply the cost of infrastructure installation, upgrade or replacement located on the project property. ~~Infrastructure activities occurring off the project property or adjacent to the project property are not eligible as matching funds. the value of property donation from the responsible party not to exceed the current county auditor value for the property or five percent (5%) of the total grant request whichever is less.~~

5.03 All Matching Funds included in the total project cost must be expended prior to the Grant Completion Date.

5.04 Applicants may not apply the costs of activities related to preparing the project property for redevelopment to their required Matching Funds ~~with the exception of infrastructure installation, upgrade, or replacement.~~ Activities related to preparing the project property for redevelopment include final site grading and building renovations.

~~5.05 The infrastructure costs applied to the required match must be for infrastructure work conducted on or at the project property.~~

~~5.06 Infrastructure work applied to the required match that was not conducted prior to the submission of the application must be completed before the Grant Completion Date.~~

5.057 Applicants may not apply ~~the administrative~~ costs to ~~prepare the application~~ to their required Matching Funds. Administrative costs include but are not limited to: application preparation, compliance with public participation requirements, legal counsel related to the application and/or project implementation, consulting fees related to compliance with applicable local, state, and federal laws, rules and policies governing the project and/or grant agreement

5.068 In accordance with O.R.C. Section 122.658 (B), applicants may not apply costs for eligible activities at the property which occurred more than two years prior to the submission of the application to the Council or which will be expended after the grant term.

5.079 Applicant(s) may apply in-kind labor and materials that were or will be contributed by the applicant(s) to their required Matching Funds. Development Partners and/or End Users may not provide in-kind contributions. In-kind contributions may only be provided by the Applicant(s) under the following conditions:

- A) The in-kind contribution is necessary and reasonable to accomplish the scope of work;
- B) The in-kind contribution is an eligible cost;

- C) The in-kind contribution of services is adequately documented. Adequate documentation of in-kind services includes, at a minimum:
- Name, ~~address, phone number~~, and occupation of ~~Applicant's employee~~ person;
 - The date and actual time that the services were provided;
 - The specific type of service provided;
 - The rate of pay for the service (based on the service provided, not the ~~individual's~~ employee's rate of pay in his/her profession);
 - A signature and date line for the ~~person~~ employee attesting to the validity and accuracy of the invoice.
- D) The in-kind contribution of goods is adequately documented. Adequate documentation of in-kind goods includes, at a minimum:
- Name, address, and phone number of the person or entity that is making the contribution;
 - The date of the contribution;
 - A detailed description of the contribution, including the number of units, the price per unit, and extended price. The price per unit should be the fair market value of the item on the date of the contribution.
 - A signature and date line for the person or representative of the entity making the contribution attesting to the validity and accuracy of the contributed items.
- E) The in-kind contribution did not occur more than two years prior to the submission of the application to the Council or which will be expended after the grant term.

Section 6: Financing

6.01 The Council may award up to 80 percent of the allocation subject to availability of bond funds. If the full allocation available is not awarded, the balance may be carried forward to the next calendar year and added to that year's 80 percent allocation.

~~6.02 — The percent matching funds committed to the project at the time of application approval must be maintained throughout the grant agreement term. The Council may not award more than 75 percent of the estimated total project costs to the applicant in the form of a grant and/or loan. If at the conclusion of the project, financial accounting indicates that the actual cost is less than the estimated, the applicant shall refund to the Revitalization Fund the amount necessary to maintain funding percentages in the grant or loan agreement.~~

~~6.03 — Maximum grant awards are defined as follows:~~

~~The maximum grant or loan to any one Cleanup project utilizing the Known End User Scoring Track of the application shall not exceed \$3 million.~~

~~The maximum grant or loan to any one Cleanup project utilizing the Redevelopment Ready Scoring Track of the application shall not exceed \$2 million.~~

6.024 No more than 15 percent of the amount allocated each year to the Revitalization Fund shall be used in the form of loans. Loans will be made in accordance with O.R.C. Section 122.657(H). Prior to the Clean Ohio Council approving any such loan, the terms of the agreement must receive written consent from the Ohio Treasurer's Office that the loan will not violate the terms of the Chapter 151 Bond Notes.

Section 7: Application Contents

- 7.01 The application, supplied by the Clean Ohio Council pursuant to O.R.C 122.652(D), must contain a certified resolution or ordinance approving the application from any or all legislative authority of the municipal corporation in which the property is located. The resolution or ordinance must contain, at a minimum, the location and address of the property and a description of the proposed use of the property at the conclusion of the project.
- 7.02 The application for Assessment shall include:
- (A) Completed application;
 - (B) A Voluntary Action Program (VAP) consistent Phase I property assessment which also meets the requirements of the applicable regulatory program (O.R.C. 3746 or 3734);
 - ~~(A)(C) Description of the proposed Phase II assessment activities that comply with the applicable regulatory program (O.R.C. Chapter 3746 or 3734) and the rules adopted thereunder. The application must contain either the Known End User Scoring Track, the Redevelopment Ready Scoring Track, or Sustainable Reinvestment Pilot Track portion of the application. An application containing multiple Tracks will not be accepted.~~
- 7.03 For Cleanup projects with property subject to Chapter 3746 of the Revised Code, the Voluntary Action Program and applicable rules, the application must include the following for the entire property:
- A) A completed application;
 - B) Copy of a Voluntary Action Program-compliant Phase I property assessment;
 - C) Certified copy of portions of a Voluntary Action Program-compliant Phase II property assessment that complies with the requirements of O.R.C. Chapter 3746 and rules adopted thereunder, and that the contamination at the property in a manner sufficient to support and justify the selection and cost estimation of a remedy that will result in the property complying with applicable Cleanup standards upon implementation; ~~and~~
 - ~~D) An affidavit signed by a Certified Professional who attests that the submitted Phase I and Phase II property assessment reports comply with all of the above criteria of this policy.~~
- ~~A copy of the Phase I and portions of the Phase II property assessment reports prepared in accordance with this Policy must be included with the application at the time a copy of the application is provided to the public library.~~
- ~~7.04 In addition to the required documents in Policy 7.03, an application for Cleanup projects under O.R.C. Chapter 3746 that rely on an Urban Setting Designation shall submit an application for Urban Setting Designation to the Ohio Environmental Protection Agency prior to the Revitalization Fund application submittal to the public library.~~
- 7.04~~5~~ For Cleanup projects with property that is the subject of an existing covenant not to sue, the application must include, in addition to that required by Policy 7.03~~4~~, an amended Phase I property assessment as required by O.A.C. Rule 3745-300-07(D)(1)(a)(ii), and specific language in the Phase II property assessment that demonstrates the remedy meets the criteria of Policy 3.08.

- 7.056 For Cleanup projects where Regulated Asbestos Containing Materials will be removed and disposed, the application must include an Asbestos Inspection Report at the time a copy of the application is provided to the public library. The Asbestos Inspection Report must be conducted by a professional who is certified by the Ohio Department of Health, and contain the following components: 1) identification of material, including locations and quantity; 2) square footage or linear feet of material; 3) sampling that demonstrates Regulated Asbestos Containing Materials greater than 1 percent; 4) description of current condition; and, 5) explanation of any planned demolition.
- 7.067 An application for Cleanup projects subject to solid waste closure requirements under O.R.C. Chapter 3734 shall include:
- (A) Completed application
 - (B) Copy of the approval letter by the Director of Environmental Protection for the solid waste closure plan that complies with applicable rules adopted under O.R.C. Chapter 3734.
 - (C) Detailed cost estimates on a per unit basis associated with the scope of work.
 - (D) The application must identify the portions of the closure for which the applicant is seeking funding. If funded, the applicant must implement the closure plan in accordance with the plan.
- 7.078 An application for Cleanup projects subject to hazardous waste closure requirements under O.R.C. Chapter 3734, and applying for closure funding shall include:
- (A) Completed application
 - (B) A Cleanup plan that includes an assessment of each hazardous waste unit, completed in accordance with Chapter 3 of the Ohio Environmental Protection Agency "Closure Plan Review Guidance". The Cleanup plan must be designated to achieve the objectives of a closure by removal or a risk-based closure as described in the Closure Plan Review Guidance.
 - (C) A copy of an itemized closure cost estimate developed pursuant to O.A.C. Rule 3745-66-42.
 - (D) If funded, the applicant must prepare, submit for approval by the ~~d~~Director of ~~e~~Environmental ~~p~~rotection, and implement a closure plan that is consistent with O.A.C. Chapter 3745-66 and Closure Plan Review Guidance.
 - (E) If an applicant has a closure plan previously approved by the ~~d~~Director of ~~e~~Environmental ~~p~~rotection, the approved closure plan must be included with the application. If funded, the applicant must implement the applicable portions of the approved closure plan in accordance with applicable rules adopted under O.R.C. Chapter 3734 and applicable Ohio Environmental Protection Agency guidance.
- 7.089 An application for Cleanup projects subject to generator closure requirements under O.A.C. Rule 3745-52-34 and Chapter 3745-66 shall include:
- (A) Completed application
 - (B) A Cleanup plan for each generator accumulation area which should be sufficient to support and justify the selection of a closure that is consistent with Section 1.1 of the Closure Plan Review Guidance.

(C) If funded, the application must implement the closure in accordance with O.A.C. Rule 3745-52-34 and Section 1.10 of the Closure Plan Review Guidance.

7.409 For property in remedial response enforcement or the subject of a remedial response investigation or cleanup order issued by the Director of Environmental Protection or a court of competent jurisdiction under ORC Chapter 3734, the applicant must include with the application: a) the remedy proposed in a Preferred Plan, or selected in a Decision Document, signed by the Director of Environmental Protection; or b) the remedy ordered by the court. The final Preferred Plan, Decision Document, or court order must be included with the application at the time a copy of the application is provided to the public library.

Section 8: Application Process

~~8.01 — The Department, on behalf of the Council, will establish deadlines for each funding round, hereby referred to as the Schedule, including the date by which applications must be received by the Ohio Public Works Commission District Integrating Committees (Integrating Committees), and the date by which prioritized applications must be received by the Council.~~

8.012 All applicants are required to hold a Project ~~Resource~~ Readiness and Advisory Assessment Meeting that includes a visit to the project property with the ~~Department~~ ODSA and the Ohio Environmental Protection Agency prior to the submission of the application to the library. Applicants must complete a registration meeting information form and provide all required information prior to the meeting. Forms are available for the meeting at <http://clean.ohio.gov/BrownfieldRevitalization/SiteVisits.htm>.

~~8.03 — All applicants will submit an application to be on the Ohio Environmental Protection Agency Brownfield Inventory prior to the submission of the application to the library. Applicants can submit a Brownfield Inventory application at~~

8.024 The applicants will submit to the public library a completed application for the project property ~~including the Known End User Scoring Track, the Redevelopment Ready Scoring Track or the Sustainable Reinvestment Pilot Track. The scoring track cannot be changed after submission to the public library.~~

8.035 No later than three (3) days following submission of the application to the public library the applicant must send one disk copy of the application to each of the following agencies:

- ~~Ohio Department of Development~~ Development Services Agency, Urban Development Division Office of Redevelopment, 77 South High St., 26th Floor, Columbus, Ohio, 43215
- Ohio Environmental Protection Agency, Division of Emergency & Remedial Response, P.O. Box 1049, 50 W. Town St. Suite 700, Columbus Ohio, 43216-1049

8.04 The following policies are applicable to Cleanup applications:

(A) ~~8.06~~ — Following the 45 day public comment period and public meeting the applicant must send one (1) original hard copy and one disk copy of the application to the Ohio Public Works local Integrating Committee District office in which the project is located. A listing of Integrating Committee District Offices is available online at <http://www.pwc.state.oh.us/DistrictLiaisons.html>;
<http://www.pwc.state.oh.us/chair.txt.htm>

(B) ~~8.07~~ — As administrative support to the Council, the ~~Department~~ ODSA and the Ohio Environmental Protection Agency will validate ~~and complete scoring of~~ the applications using the criteria approved by the Council and Director.

- (C) ~~8.08~~ — The Integrating Committee or, if so authorized, its executive committee shall prioritize its applications in accordance with the consultation requirements in O.R.C. Section 122.652(B), “In prioritizing and choosing applications under this division, an integrating committee or, if required under division (C) of this Section, the executive committee of the integrating committee shall consult with local and regional economic development agencies or resources, community development agencies or organizations, local business organizations, and other appropriate entities located or operating in the geographic jurisdiction of the integrating committee.”
- (D) ~~8.09~~ — The Integrating Committee, or if so authorized, their executive committees, shall forward to the Council no more than six (6) complete and original applications, annually and shall submit with these applications a letter from the chair identifying the priorities assigned. In addition, the chair of an Integrating Committee, when empowered under O.R.C. 122.652(B), may forward an application to the Council.
- (E) ~~8.10~~ — If multiple applications are prioritized within an Integrating Committee’s District, and one or more of those applications are withdrawn prior to the Clean Ohio Council award meeting, then the lower ranked application(s) will automatically move up to the next available ranking unless otherwise noted in the prioritization letter from the Integrating Committee Chair. The final application scores presented to the Clean Ohio Council will be modified to reflect the revised rankings.
- (F) ~~8.11~~ — Upon receipt of the application(s) from the integrating committee(s), and on~~On~~ behalf of the Council the ~~Department~~ODSA, with assistance from the Ohio Environmental Protection Agency, shall review the applications for completeness and provide applicants an opportunity to supply missing information. Applicants can submit missing information based on the written ~~Council~~-completeness review correspondence, provided that the missing information is received by the ~~Council~~ODSA within the deadline as promulgated in the ~~Schedule~~completeness review correspondence. If an application is incomplete, and the applicant does not submit the ~~Council’s~~-requested missing information as provided by O.R.C. Section 122.653(A) ~~within the Schedule~~, the Council and the Director may disqualify the application.
- (G) ~~8.12~~ — The application ~~scores~~summaries, and the prioritization results of the Integrating Committees ~~along with the application summaries~~ will be provided to Council members no later than ~~fourteen~~seven (~~14~~7) calendar days prior to the Clean Ohio Council meeting at which funding decisions are to be made. Supporting documentation (complete applications, copies of public notice, minutes of public meetings, property access documents, affidavits, etc.) will be available to Council members upon request.
- (H) ~~8.13~~ — The Council shall review the project application materials, ~~assign discretionary points~~ and prioritize the applications using the selection process established pursuant to O.R.C. Section 122.657(D).
- (I) ~~8.14~~ — The Council shall approve or disapprove project applications in accordance with O.R.C. Section 122.653(B) and (C).
- (J) Grants ~~and loans~~ approved by the Council are contingent upon the approval of the State Controlling Board.

8.05 The following policies are applicable to Assessment and cleanup applications pursuant to O.R.C. Section 122.656:

- (A) Following the 45 day public comment period and public meeting the applicant must send one (1) original hard copy to the Development Services Agency Office of Redevelopment, 77 South High St., 26th Floor, Columbus, Ohio, 43215
- (B) The ODSA, with assistance from the Ohio Environmental Protection Agency, shall review the applications for completeness and provide applicants an opportunity to supply missing information. Applicants can submit missing information based on the written completeness review correspondence, provided that the missing information is received by the ODSA within the deadline as promulgated in the completeness review correspondence. If an application is incomplete, and the applicant does not submit the requested missing information the Director may disqualify the application.
- ~~(A)~~(C) Grants approved by the Director are contingent upon the approval of the State Controlling Board.

Section 9: Public Participation

- 9.01 Prior to submission of the application, the applicant shall conduct a public meeting concerning the application. No later than forty-five (45) days prior to the public meeting, the applicant must place a copy of the application in a public library, place a notice of the public meeting in a newspaper of general circulation in the county where the brownfield is located, and post a sign at the property. In addition to the notice of the public meeting, the applicant must post the following application information on their website or other local government websites accessible to the community: application summary, notice of public meeting and contact information.
- 9.01.1 The application shall be placed in the public library nearest to the brownfield.
- 9.01.2 The notice must be placed in a newspaper, which circulates in the community where the majority of the brownfield is located. The notice may appear as either a classified legal notice or as a display advertisement.
- 9.01.3 The public meeting notice must include, at a minimum: the date, time and location of the public meeting; amount of the request; the location of the public library where the application is available for public review; the intent of the applicant to apply for ~~Revitalization~~ Brownfield Fund grants and/or loans and, the website address where the application information can be accessed.
- 9.01.4 The sign must not be less than four feet by four feet unless prohibited by local ordinance, in which case the sign must be the maximum size allowed by local ordinance.
- 9.01.5 The sign must include the date, time and location of the public meeting; the amount of the request; the location of the public library where the application is available for public review; the intent of the applicant to apply for ~~Revitalization~~ Brownfield Fund grants and/or loans; contact information for the applicant; and the website address where the application information can be accessed.
- 9.02 The applicant must conduct the public meeting so as to allow for questions from the public and for public comment.
- 9.03 At the public meeting, the applicant must address any written comments received during the 45-day public comment period.
- 9.04 The applicant must take the minutes of the meeting, including the number of individuals in attendance, and an accurate summary of the comments, questions, debate and discussion which occur at the meeting.

- 9.02~~5~~5 The following documentation must be included with the original hard-copy application submittal ~~when it is submitted to the Integrating Committee~~:
- (A) A receipt from the public library for the application, proof and copy of newspaper publication of the public meeting notice, a photograph of the sign posted at the property;
 - (B) A copy of public comments received during the 45-day comment period, ~~and~~ minutes of the public meeting and a copy of the attendance sign-in sheet from the public meeting.
- 9.03~~6~~6 After submission to the public library, an application cannot be modified except to:
- ~~(A) Respond to the public comment process, in which case modifications must be made prior to submitting the application to the Integrating Committee and must be included in the public participation exhibits of the application;~~
 - ~~(B)~~(A) Perform administrative tasks such as local government approval that cannot reasonably be done prior to submission of an application to the public library but that have a schedule for accomplishing in the application and are completed and made part of the application submitted to the Integrating Committee; and (or),
 - ~~(C)~~(B) Respond in accordance with Policy 8.~~1105~~105~~(F)~~.
- 9.04~~7~~7 The Integrating Committee must comply with Ohio Public Works Commission Advisory XVI, <http://www.pwc.state.oh.us/SUNSHINE.LAW.htm>, in conducting its meeting regarding the ~~Revitalization Brownfield~~ Fund.
- 9.05~~8~~8 The Council will provide for public participation in addition to that prescribed in legislation, O.R.C. Section 122. 652. The Council public participation augments the opportunities available at the local and district level for the public to raise issues and concerns. The Council's public participation process is the following:
- (A) ~~Three-Two~~ weeks prior to a scheduled meeting of the Council, a copy of the agenda will be posted on-line at the ~~Department's ODSA~~ website: <http://www.clean.ohio.gov>
 - (B) The agenda will be accompanied with the contact information for the ~~Urban Development Division~~Office of Redevelopment ;
 - (C) There will be ~~fourteen-seven~~ (147) days from the date the agenda is posted on the web page for public comments; no public comments will be accepted after the comment period. Public comments must be submitted to the ~~Urban Development Division~~Office of Redevelopment via e-mail at urban@development.ohio.gov ~~redevelopment@development.ohio.gov~~ or by letter to the ~~Urban Development Division~~Office of Redevelopment, 77 South High Street, 26th Floor, P.O. Box 1001, Columbus, Ohio 43221;
 - (D) One week prior to the Council meeting copies of all public participation materials submitted to the ~~Urban Development Division~~Office of Redevelopment within the ~~147~~-day comment period will be forwarded to the Council members; and
 - (E) No public comment will be taken in either verbal or written form during the business meeting of the Council unless formally requested by the Chairperson.

Section 10: Funded Property

- 10.01 Approved applications for Cleanup must open a Technical Assistance (TA) account with the Ohio Environmental Protection Agency within sixty (60) days of the Council award meeting date.
- 10.02 All applicants are required to submit a Brownfield Inventory application to the Ohio Environmental Protection Agency within sixty (60) days of the Council award meeting date. Applicants can submit a Brownfield Inventory application at <http://www.derr.epa.ohio.gov/Home.aspx>

~~10.02~~ 10.03 Approved Cleanup project applications must commence within twelve (12) months of the grant agreement effective date. Commencement includes completion of acquisition activities, award of contract for the Certified Professional, and award of contract for the demolition and/or remediation contractors.

~~10.03~~ 10.04 Cleanup projects must be completed, including the submittal of a No Further Action Letter within Thirty-Six (36) months and the issuance of the Covenant Not to Sue or Director's Determination Letter, within forty-eight (48) months of the grant agreement effective date, ~~unless an extension is granted by the Council.~~

10.05 Assessment projects must be completed, including submission of the Voluntary Action Program compliant Phase II Environmental Assessment report, within Eighteen (18) months of the grant agreement effective date.

~~10.04~~ 10.06 For Cleanup projects, extension of the No Further Action Date may only be granted by the Council. The Grant Completion Date may only be extended at the request of the Ohio Environmental Protection Agency. Projects are eligible for the extension only if the Covenant-Not-To-Sue, Director's Determination Letter, or for projects subject to ORC Chapter 3734 another determination that the project meets applicable standards, has not been issued.

~~10.05~~ 10.07 Upon public solicitation of contractor bids for funded properties the grantee must notify the ~~Department~~ ODSA by submitting a Bid Notification Form available on the ~~Revitalization~~ Brownfield Fund website <http://clean.ohio.gov/BrownfieldRevitalization/Default.htm>

~~10.06~~ 10.08 Entities paid ~~for~~ with ~~Clean Ohio Revitalization~~ Brownfield Fund grant dollars ~~on a funded property~~ must avoid conflicts of interest. A conflict of interest occurs when an individual or organization involved in the Cleanup project has an interest that might compromise their ability to execute the project in a manner consistent with the intentions of the ~~Clean Ohio Revitalization~~ Brownfield Fund program. A conflict of interest may exist even if no proven illegal act results from it, and will include an appearance of impropriety that undermines confidence in the individuals or organizations involved in the project. To avoid a conflict of interest and ensure that proper checks and balances exist, the following restrictions are placed on funded properties:

- The Certified Professional may not act as the developer or an investor in the development on the funded project.
- The selected environmental consulting firm or their employees may not act as the developer or an investor in the development on the funded project.
- The selected contractor or subcontractors may not act as the developer or an investor in the development on the funded project.
- The selected environmental consulting firm and the contractor or subcontractor for the funded project may not be the same firm or related firms.
- The selected environmental consulting firm may not be engaged in concurrent service agreements for the grantee and the party that caused and contributed to the contamination on the funded project

~~Section 11: Sustainable Reinvestment Pilot Track~~

~~11.01—Eligible Applicants for the Sustainable Reinvestment Pilot Track are identified in Section 1.~~

~~11.02—Eligible Property for the Sustainable Reinvestment Pilot Track is identified in Section 2.~~

~~11.03—Subject to Policies 8.07 through 8.09, Ohio Public Works Commission Integrating Committee Districts may submit no more than two projects in priority order to the Clean Ohio Council per funding round for the~~

~~Sustainable Reinvestment Pilot Track. The Council shall consider second priority projects for funding only in the event funding remains after consideration of all first priority projects.~~

- ~~11.04—Activities and associated costs for projects in the Sustainable Reinvestment Pilot Track must comply with Section 3.06 through 3.25 and the following:~~
- ~~● A maximum \$1.5 million grant award~~
 - ~~● For projects in the Sustainable Reinvestment Pilot track demolition, cleanup and infrastructure activities are eligible costs~~
 - ~~● Acquisition is not an eligible cost~~
 - ~~● A maximum of \$400,000 of the total grant award may be used for eligible infrastructure activities~~
 - ~~● A maximum 10% of the eligible infrastructure costs may be used for professional design fees (i.e. landscape architect or professional engineer)~~
 - ~~● For the Sustainable Reinvestment Pilot track, eligible infrastructure costs include the costs for installing new infrastructure, upgrading or replacing existing infrastructure on the project property to the extent that the infrastructure meets the criteria identified in section 11.07 and serves a multi-purpose. Examples include but are not limited to the following: roadways, pathways, structures used to manage stormwater, seed and grade, signage, professional design fees, wetlands and stream restoration~~
 - ~~● Development activities including any new construction are not eligible costs (i.e. marinas, parking garages)~~
- ~~11.05—Projects in the Sustainable Reinvestment Pilot Track must comply with Section 5 Matching Funds and the following:~~
- ~~● The following items may only be considered as matching costs: park amenities, plants, trees, landscaping, urban gardens, solar panels and components, wind turbine components, green roofs.~~
 - ~~● Maintenance and stewardship activities are not eligible as matching costs.~~
 - ~~● Costs identified as development activities are not eligible as matching costs.~~
- ~~11.06—Projects in the Sustainable Reinvestment Pilot Track under the Signature Parks, Sustainable Infrastructure and Urban Waterfronts categories must maintain the following land use restrictions:~~
- ~~● A minimum 80% of the total project property area must be utilized as greenspace or public space~~
 - ~~● A maximum 20% of the total project property area may be utilized for parking~~
 - ~~● Implementation of either an easement or deed restriction for the planned greenspace or public space is required for a minimum of 10 years following project completion~~
 - ~~● A commitment for maintenance and stewardship of the planned greenspace or public space is required for a minimum of 10 years following project completion. A commitment must be provided in the application for funding.~~
 - ~~● All projects in the Signature Parks or Sustainable Infrastructure category must have a minimum 1.5 acres total project property.~~
 - ~~● All projects in the Urban Waterfronts category must have a minimum 1.0 acre total project property.~~
- ~~11.07—Projects in the Sustainable Reinvestment Pilot Track must maintain the following requirements concerning installation and/or repair of infrastructure and new construction:~~
- ~~● All infrastructure activities completed during the project must follow Sustainable Best Practices, LEED, or Green Infrastructure Guidelines. A description to which guidelines the applicant will follow must be included in the application for funding.~~
 - ~~● The applicant or local government entity with jurisdiction over the project property must pass a resolution or ordinance to be included in the application for funding that states any new construction on the project property will follow LEED guidelines. The resolution or ordinance must be in effect for a minimum of 10 years following project completion.~~

Definitions

“Ability to pay” means legal solvency or having sufficient assets to pay the costs of Cleanup.

“Assessment” means those activities prescribed in O.A.C. 3745-300-07 for conducting a Phase II Environmental Assessment. Assessment may also include completion of an asbestos survey, property survey, geophysical survey Urban Setting Designation and applicable reports.

“Brownfield” means an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum as defined by O.R.C. Section 122.65(D).

“Cleanup” means any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield, including acquisition and demolition performed at a brownfield, and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development.

“Clearance activities” include but are not limited to clearing and grubbing of vegetation, trees or other organic material prior to Cleanup of a property.

“Covenant not to sue” or “covenant,” means the final findings and orders issued by the Director of Environmental Protection pursuant to O.R.C. Section 3746.12.

“Decision Document” means the report, which evidences the Ohio Environmental Protection Agency’s Cleanup plan for property that is the subject of a remedial response investigation or Cleanup order issued by the Director of Environmental Protection or by a court of competent jurisdiction under O.R.C. Chapter 3734. Preparation of the Decision Document takes into consideration any comments received regarding the Preferred Plan for the property.

“Demolition” means razing, disposal and recycling of onsite structures including subsurface structures, removal and disposal of asbestos containing materials, general waste and universal waste. Demolition does not include any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield.

“Funded Property” means the project property that is described in the executed ~~Clean Ohio Revitalization~~Brownfield Fund Grant Agreement between the grantee and the Clean Ohio Council or Director.

“Goods” mean all labor and materials related to the demolition, Cleanup, and infrastructure activities to be undertaken at the brownfield property, as part of the ~~Clean Ohio Revitalization~~Brownfield Fund grant, and provided by contracting entities that derive at least 51 percent of their revenues from the performance of demolition, remediation, or construction activities. Contracting entities must be solicited based upon project bid specifications and any other documents deemed appropriate by the political subdivision.

“Grant Completion Date” means:

For Assessment projects, the date that the Director of the Development Services Agency receives a complete copy of a VAP compliant Phase II environmental assessment report which complies with all requirements for Assessment projects.

For Cleanup projects, ~~the date that the Director of Ohio EPA issues a project closure document or twelve forty-eight months (4812) months after the No Further Action Date grant effective date, whichever occurs first. All grant activities must be complete by the Grant Completion Date including issuance of the project closure document by the~~

Ohio Environmental Protection Agency. A “project closure document” includes a Covenant-Not-To-Sue, a Director’s Determination Letter, or another determination that the project meets applicable standards for projects subject to ORC Chapter 3734.

“Industrial or commercial property” means:

- (a) Property utilized for commercial or industrial purposes including manufacturing, production, storage or distribution of goods, wholesale trade, retail, hotel, offices and other such uses but not for residential purposes. Also called commercial facility or industrial facility; or,
- (b) Government-owned properties, properties owned by colleges, non-for-profit organizations and charitable exemptions such as hospitals that could have reasonably been utilized as commercial or industrial but for its exempt status; and,
- (c) The definition of commercial and industrial property does not include residential property. Residential property means property where the use or intended use of existing structures is exclusively as a fixed or permanent domicile. This includes both single and multi-unit structures.

“Infrastructure” means the technical structures that support a society, including but not limited to roads, bridges, water supply, sewers, power grids, and telecommunications, but excludes vertical structures, such as buildings and parking garages. Infrastructure includes only those activities occurring on the project property.

“Institutional property” means property currently or formerly owned or controlled by the state that is or was used for a public or charitable purpose. However, “institutional property” does not mean property that is or was used for educational purposes as defined in O.R.C. 122.65(J).

~~“Known End User Scoring Track” means the grantee or Development Partner has a committed final user for the project property after the property is redeveloped. The known end use must be supported by a written commitment from each end user, a Dun & Bradstreet Company Business Background Report for each end user, and a business plan from each end user.~~

~~“No Further Action Date” thirty-six (36) months after the grant effective date. The applicable project completion document must be submitted to the Director and the Director of Ohio EPA by the No Further Action date. A “project completion document” includes a copy or an original No Further Action Letter, or the necessary documentation for projects subject to O.R.C. Chapter 3734, as defined in the Grant Agreement. means the date on which the Director of Ohio EPA receives a copy or an original No Further Action Letter, or the necessary documentation for projects subject to O.R.C. Chapter 3734, as defined in the Grant Agreement.~~

“Orphan property” means any property for which there is no person liable for Cleanup or remediation costs under 42 United States Code § 9607 who has the ability to pay those costs.

“Preferred Plan” means a document prepared by the Ohio Environmental Protection Agency which presents to the public the Ohio Environmental Protection Agency’s preferred alternative for Cleanup at a property subject to a remedial response investigation or Cleanup order. The document includes a brief summary of the alternatives evaluated in the detailed analyses of the Feasibility Study, highlighting the key factors that lead to the identification of the preferred alternative.

“Project” means those eligible activities in the grant agreement to be completed within the timeline of the grant agreement.

“Property” means any parcel of real property, or portion of such a parcel, and any improvements to it.

~~“Redevelopment Ready Scoring Track” means the grantee has not declared a final user for the project property.~~

“Remedial Action Work Plan” means the remedial action work plan developed in accordance with the Voluntary Action Program Memorandum of Agreement Track procedures and the criteria of O.A.C. Rule 3745-300-15 for implementation of remedial activities in the Voluntary Action Program.

“Risk Assessment” means a quantification of the risk posed by exposure of a human or ecological receptor to hazardous substances or petroleum that is performed in compliance with the criteria of the applicable regulatory program to demonstrate that a property meets the applicable Cleanup standards for the property (e.g., for projects subject to the Voluntary Action Program applicable standards, O.A.C. rule 3745-300-09; for projects subject to hazardous waste applicable standards, use of a risk assessment as a means to demonstrate compliance with the closure performance standard, etc.)

“Services” – Includes engineering, remedial design, environmental design, construction management, certified professional activities, project oversight, project certification and/or any other similar activities as part of a brownfield project. A service provider may not act as a contracting entity for goods.

~~“Sustainable Reinvestment Pilot Track” means the grantee has categorized the final use of the property as one of the following: Signature Parks, Sustainable Infrastructure, Urban Waterfronts, or Cleanfields / Brightfields.~~

“Total project costs” means all dollars expended (or to be expended) at the property for eligible activities as defined by O.R.C. Section 122.658, ~~(Policy 3)~~ and other costs identified as match by these policies.

“Voluntary Action Program” or “VAP” means the Voluntary Action Program established within the Ohio Environmental Protection Agency under O.R.C. Chapter 3746. The rules adopted under O.R.C. Chapter 3746 are contained in O.A.C. Chapter 3745-300.