

Clean Ohio Assistance Fund Policies

Introduction and Definitions

The following policies were established for the Clean Ohio Assistance Fund (Assistance Fund) pursuant to Ohio Revised Code (ORC) section 122.656. The Director of the Ohio Development Services Agency (Director) approved the Policies. The terms defined under ORC section 122.65, or the attached definitions section, apply to these Policies.

Section 1: Eligible Applicants

- 1.01 Eligible applicants for Clean Ohio Assistance Fund grants are: townships, municipal corporations, counties, port authorities, and conservancy districts that submit applications for a brownfield located within an eligible area. Eligible applicants may jointly apply for the same project.
- 1.02 Non-profit and for-profit organizations are eligible Development Partners if they have entered into an agreement with an applicant identified in Policy 1.01.
- 1.03 An eligible area is 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 Priority Investment Areas is available online: <http://clean.ohio.gov/BrownfieldRevitalization/BrownfieldRevitalizationMaps.htm>.
- 1.04 Applicants identified in Policy 1.01 shall be signatories on the Assistance Fund grant agreement entered into with the Director and these entities. Parties identified in Policy 1.02 may not be signatories to the grant agreement.
- 1.05 COAF grants shall be disbursed by the Ohio Development Services Agency (ODSA) only to Applicants identified in Policy 1.01, pursuant to the grant agreement entered into between the Department and such Applicants.
- 1.06 Entities that caused or contributed to the contamination at the property are not eligible applicants, nor may they 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.
- 1.07 Applicants may not apply for COAF funds to conduct a “cleanup” as defined in O.R.C. section 122.65 (D) for a property at which the party that caused or contributed to the contamination is currently operating and/or will continue to operate.

Section 2: Eligible Properties

- 2.01 Properties are eligible only if they are located in an eligible area as defined in Policy 1.03, and they meet the definition of a brownfield.
- 2.02 Properties are eligible only if they meet the definition of industrial, commercial, or Institutional property.
- 2.03 The property may contain more than one parcel, providing that parcels are contiguous. Parcels separated only by a street, alley or railroad track are considered contiguous. If a project contains more than one parcel, then each parcel must meet the definition of commercial, industrial, or institutional property.

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- 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. In cases where the applicant is applying for funds to complete a Phase II Environmental Assessment and the party who may have caused or contributed to the contamination is still operating on the property, the applicant must include an option to purchase for the property that does not expire until after the project 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.
- 2.05 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.
- 2.06 The property legal description at the time of project completion must be identical to the property legal description identified in the application.

Section 3: Eligible Costs

- 3.01 The expenditures of Clean Ohio fund are to remove environmental conditions preventing redevelopment of a property and to address issues “where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum,” on a Brownfield.
- The Director may approve a project that does not meet the criteria of policies in 3.01, if in the Director’s judgment the investment is necessary to further the economic development initiatives of ODSA and the state of Ohio.
- 3.02 Activities funded by the Clean Ohio Assistance Fund are environmental assessments, Cleanup of hazardous substances and/or petroleum, demolition, acquisition and minimal site infrastructure. Assessment and Cleanup activities must meet the definition of (1) assessment and (2) Cleanup as defined in Divisions (C), (F), and (P) of O.R.C. section 122.65.
- The maximum application request for a Phase II Environmental Assessment grant is \$200,000;
 - The maximum application request for a Cleanup grant is \$1,000,000;
- 3.03 Cleanup activities, property acquisition and the installation of new infrastructure or upgrading or replacing existing infrastructure are not eligible costs for Assessment projects
- 3.04 Tire removal and disposal are not eligible costs.
- 3.05 Costs for a risk assessment are eligible costs, unless a risk assessment was previously funded under the Clean Ohio Assistance Fund for all or a portion of the property.
- 3.06 Only to the extent that hazardous substances or petroleum exceed applicable cleanup standards identified in the application will Cleanup be funded.
- 3.07 Removal and disposal of Regulated Asbestos Containing Material (RACM) are eligible costs.

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- 3.08 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).
- 3.09 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 to the extent that the Cleanup costs are in addition to the requirements of the Preferred Plan or Decision Document; or c) to the extent the Cleanup costs required by the Preferred Plan or Decision Document exceed the potentially responsible parties' ability to pay.
- 3.010 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 to 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 potentially responsible parties' ability to pay.
- 3.11 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 to 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.
- 3.12 Remedies addressing methane gas are not eligible costs, except to the extent that the methane is commingled with hazardous substances and petroleum.
- 3.13 Clearance activities are not eligible costs.
- 3.14 Project costs defined as markup are not eligible costs. The legislation governing the Clean Ohio program instructs the Department to make payments "only to pay the costs of the actual cleanup of a brownfield," (O.R.C. 122.658 (D)).
- 3.15 In accordance with O.R.C. Chapter 4115, prevailing wage rates may apply to all activities that are part of the Assistance Fund grant involving Cleanup total project costs.
- 3.16 Removal of BUSTR (Bureau of Underground Storage Tank Regulation) regulated underground storage tanks and remediations of petroleum leaks from such tanks are not eligible costs.

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- 3.17 Removal of solid waste is not an eligible cost, except to the extent that the solid waste is commingled with hazardous substances and petroleum.
- 3.18 Removal and disposal of Regulated Asbestos Containing Material (RACM) are eligible costs.
- 3.19 Recipients of Clean Ohio Assistance Funds may not use those funds for indirect and/or administrative costs, which include but are not limited to the costs of: application preparation, compliance with public participation requirements, legal counsel related to the application and/or project implementation, consulting fees and compliance with applicable local, state, and federal laws rules and policies governing the project and/or grant agreement.
- 3.20 The cost of employing a Certified Professional is an eligible cost.
- 3.21 The Assistance Fund will pay only for activities specifically required to undertake and complete the appropriate remediation to meet applicable cleanup standards under ORC Chapter 3734 and 3746.
- 3.22 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.
- 3.23 If the No Further Action letter or applicable project completion report is withdrawn, any costs associated with re-issuance of the No Further Action letter or applicable project completion report is 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.
- 3.24 As part of an Assessment or Cleanup application, costs for preparation of an Urban Setting Designation (USD) are eligible costs.
- 3.25 Costs for eligible activities will be reimbursed based upon the submission of the required documents to ODSA.

Section 4: Project Costs

- 4.01 Total project costs are all dollars to be expended at the property for conducting an assessment or a Cleanup of a brownfield. Applicants can only receive grant funds for eligible costs expended after the grant agreement has been executed.
- 4.02 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.

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- 4.03 For Cleanup projects, property acquisition activities are eligible for a maximum of 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, infrastructure activities completed on the project property are eligible for a maximum of 25 percent of the grant request. All grant funded infrastructure activities must be completed before the Grant Completion Date.
- 4.05 Applicants requesting funds for the purpose of conducting a Phase II Environmental Assessment of a brownfield property are to allocate a minimum of 60% of the Clean Ohio Assistance Fund dollars 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 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
- 4.07 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 satisfaction, that the above standard has been met.
- 4.08 The total project costs must be presented in the application in a unit and itemized cost form. All subcontractor costs greater than \$15,000 for assessment projects and \$25,000 for Cleanup project must be accompanied by a third party cost estimate for the services that would be provided.
- 4.09 Costs for activities utilizing Brownfield Fund grant dollars cannot be incurred after the Grant Completion Date. All final requests for payment must be made within thirty (30) days after the Grant Completion Date

Section 5: Matching Funds

- 5.01 Applications for Cleanup must 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 Brownfield 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 Item(D) of this Section.

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- (D) The percent matching funds committed to the project at the time of application approval must be maintained throughout the grant agreement term. The Director 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
- 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. Activities related to preparing the project property for redevelopment include final site grading and building renovations.
- 5.05 Applicants may not apply administrative costs 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
- 5.06 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 Director or which will be expended after the grant term.
- 5.07 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 and occupation of Applicant's employee;
 - The date and actual time that the services were provided;
 - The specific type of service provided;

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- The rate of pay for the service (based on the service provided, not the employee's rate of pay in his/her profession);
 - A signature and date line for the 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 Director or which will be expended after the grant term.

Section 6: Application Process

- 6.01 All applicants are required to hold a Project Resource and Advisory Meeting that includes a visit to the project property with ODSA and the Ohio Environmental Protection Agency prior to the submission of the application to the library. Applicants must complete a registration form for the meeting at <http://clean.ohio.gov/BrownfieldRevitalization/SiteVisits.htm>.
- 6.02 No Later than three (3) days following submission of the application to the public library, the applicant must send (2) disk copies of the application to the Ohio Development Services Agency, Office of Redevelopment, 77 South High St., 26th floor, Columbus, Ohio, 43215.
- 6.03 Following the 45 day public comment period and the public meeting, the applicant must send one (1) original copy of the application to the Ohio Development Services Agency, Office of Redevelopment, 77 South High St., 26th floor, Columbus, Ohio, 43215.
- 6.04 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.
- 6.05 The Director shall approve or disapprove in writing, applications submitted to ODSA for grants from the Clean Ohio Assistance Fund.
- 6.06 All awards approved by the Director are contingent upon the approval of the State Controlling Board.

Section 7: Public Participation

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- 7.01 No later than 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.
- 7.01.1 The application must be provided to the public library nearest to the Brownfield. The applicant must post the following information on their website or other local government websites accessible to the community: application summary, legal notice and contact information. The web link will be displayed on the four feet by four feet sign.
- 7.01.2 The notice must be placed in a newspaper that 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.
- 7.01.3 The notice must include, at a minimum: the date, time and location of the public meeting; the location of the public library where the application is available for public review; the intent of the applicant to apply for Clean Ohio Assistance Funds and, the website address where the application information can be accessed.
- 7.01.4 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.
- 7.01.5 The sign must include the date, time and location of the public meeting; the location of the public library where the application is available for public review; the intent of the applicant to apply for Clean Ohio Assistance Funds; and the website address where application information can be accessed.
- 7.02 The applicant must conduct the public meeting so as to allow for questions from the public and for public comment.
- 7.03 At the public meeting, the applicant must address any written comments received during the 45-day public comment period.
- 7.04 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.
- 7.05 The following documentation must be included with the application when it is submitted to ODSA: a receipt from the public library for the application, proof and copy of newspaper publication of the notice, a photograph of the sign posted at the property, a copy of public comments received during the 45 day comment period, minutes of the public meeting and a copy of the attendance sign-in sheet from the public meeting.

Section 8: Environmental Documents Required for Assessment and Cleanup Grants

All documents described in this section must be included with the application at the time a copy of the application is provided to the library.

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- 8.01 The submittal for an Assessment grant shall include:
- Completed application;
 - 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);
 - 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.
- 8.02 An application for Cleanup projects subject to a remedial response investigation or cleanup order issued by the director of environmental protection under O.R.C. Chapter 3734 shall include:
- Completed application;
 - The remedy proposed or selected by the director of environmental protection and a Preferred Plan or Decision Document.
- 8.03 An application for Cleanup projects subject to O.R.C. Chapter 3746 (VAP), shall include:
- Completed application;
 - Copy of a VAP compliant Phase I property assessment;
 - Certified copy of portions of a VAP compliant Phase II property assessment that complies with the requirements of O.R.C. Chapter 3746 and rules adopted thereunder, and that characterizes the contamination at the property in a manner sufficient to support and justify the selection and cost estimation of a remedy that will meet applicable standards upon implementation.
- 8.04 For Cleanup projects where Regulated Asbestos Containing Materials (RACM) will be removed, and disposed, the application must include an Asbestos Inspection report. The Asbestos Inspection Report must be conducted by a professional who is Ohio Department of Health certified, 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 RACM greater than 1%; 4) description of current condition; and 5) explanation of any planned demolition.
- 8.05 An application for cleanup projects under ORC Chapter 3736 that relies on an Urban Setting Designation (USD) to achieve applicable standards must either include a copy of USD approval, or an “eligibility determination” that includes discussions with Ohio EPA and the municipality that has jurisdiction indicating that a USD is possible.
- 8.06 An application for Cleanup projects subject to solid waste closure requirements under O.R.C. Chapter 3734 shall include:
- Completed application;
 - 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.
 - The application must identify the portions of the closure for which the applicant seeks funding. If funded, the applicant must implement the closure plan in accordance with the plan. Detailed cost estimates on a per unit basis associated with the scope of work.
- 8.07 An application for Assessment projects subject to hazardous waste closure requirements under O.R.C. Chapter 3734 shall include an assessment plan that is consistent with sections 3.1 to 3.5

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and 3.11 to 3.19 of the Ohio EPA, Division of Hazardous Waste Management, "Closure Plan Review Guidance 2008" (CPRG). The assessment must be designed to achieve the objectives of section 4.1 to 4.3 of the CPRG. If funded, the applicant must implement the assessment plan in accordance with the plan, applicable rules adopted under O.R.C. Chapter 3734, and applicable Ohio EPA guidance.

8.08 An application for Cleanup projects subject to hazardous waste closure requirements under O.R.C. Chapter 3734, and applying for closure funding shall include:

- Completed application;
- A cleanup plan that includes an assessment of each hazardous waste unit, completed in accordance with Chapter 3 of CPRG. The cleanup plan must be designed to achieve the objectives of a closure by removal or a risk-based closure as described in the CPRG.
- A copy of an itemized closure cost estimate developed pursuant to Ohio Administrative Code (O.A.C.) Rule 3745-66-42.
- If funded, the applicant must prepare, submit for approval by the director of environmental protection, and implement a closure plan that is consistent with O.A.C. Chapter 3745-66 and the CPRG.
- If an applicant has a closure plan that has already been approved by the director of environmental protection, 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 EPA guidance.

8.09 An application for Cleanup projects subject to generator closure requirements under O.A.C. rule 3745-52-34 and Chapter 3745-66, shall include:

- Completed Cleanup application;
- 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 (Generator Closure) of the CPRG.
- If funded, the application must implement the closure in accordance with OAC rule 3745-52-34 and section 1.10 of the CPRG.

Section 9: Funded Property

9.01 Approved applications for Cleanup must open a Technical Assistance (TA) account with the Ohio Environmental Protection Agency within sixty (60) days of the Director approval date.

9.02 All applicants are required to submit a Brownfield Inventory application to the Ohio Environmental Protection Agency within sixty (60) days of the Director approval date. Applicants can submit a Brownfield Inventory application at <http://www.derr.epa.ohio.gov/Home.aspx>

9.03 Approved Cleanup projects 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.

9.04 Assessment projects must be completed within 18 months of the date that the grant agreement is signed by the Director, unless an extension is granted by ODSA.

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- 9.05 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.
- 9.06 For Cleanup projects, extension of the No Further Action Date may only be granted by the Director. The Grant Completion Date may be extended at the request of the Ohio Environmental Protection Agency only if the Covenant-Not-To-Sue, Director's Determination Letter, or another determination that the project meets applicable standards for projects subject to ORC Chapter 3734 has not been issued.
- 9.07 Upon public solicitation of contractor bids for funded properties the grantee must notify the Office of Redevelopment via e-mail of the solicitation at redemption@development.ohio.gov
- 9.08 Entities paid for with Clean Ohio Assistance 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 Assistance 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.

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Definitions

Ability to pay - Legal solvency or having sufficient assets to pay the costs of cleanup or remediation.

“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 - 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 in O.R.C 122.65(D).

Cleanup - Any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield or public health project. Cleanup includes remediation and demolition performed at a brownfield.

Covenant not to Sue or covenant - The final findings and orders issued by the director of environmental protection pursuant to O.R.C. section 3746.12.

Decision document - The report that evidences Ohio EPA’s cleanup or remediation 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.

Goods – 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 Assistance Fund grant, and provided by contracting entities that derive at least 51% 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, forty-eight months (48) months after the grant effective date. 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.

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).

Memorandum of Agreement or MOA - The Superfund Memorandum of Agreement Brownfields and Voluntary Action Plan Memorandum of Agreement Track entered into between the State of Ohio and U.S. EPA Region V on July 31, 2001.

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“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.

Orphan property - Any property for which there is no person liable for cleanup or remediation costs under 42 USC § 9607 who has the ability to pay those costs.

Preferred plan - A document prepared by Ohio EPA that presents to the public Ohio EPA’s preferred alternative for cleanup or remediation 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 - Those eligible activities in the grant agreement to be completed within the timeline of the grant agreement.

Property - Any parcel of real property, or portion of such a parcel, and any improvements to it.

Remedial Action Work Plan - The remedial action work plan developed in accordance with VAP-MOA Track procedures and the criteria of O.A.C. rule 3745-300-15 for implementation of remedial activities in the VAP.

Risk Assessment - 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 VAP 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.

Total project costs - All dollars expended (or to be expended) at the property for eligible activities in section 3 of these policies and other costs identified as match as defined by O.R.C. section 122.658.

Voluntary Action Program or VAP - The Voluntary Action Program established within the Ohio EPA under O.R.C. Chapter 3746. The rules adopted under O.R.C. Chapter 3746 are contained in O.A.C. Chapter 3745-300.