



Brownfield Remediation Program Frequently Asked Questions

GENERAL

Q: What is a brownfield?

A: A brownfield is 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.

Q: How much funding may an entity apply for, and when, under the Brownfield Remediation Program?

A: There is no specific “entity” limit. An entity may immediately apply for as much funding as they need. There is an up to the \$10 million dollar per clean-up, and \$300,000 assessment per-project thresholds in the guidelines. The first round of funding will try to award as much of the county set aside as possible and potentially a portion of the general statewide allocation, especially for projects for which the applicant(s) do not have the required 25% match.

Q: How and when can a private entity apply for a brownfield remediation grant? Must they wait until July?

A: Private entities must enter into an agreement with a unit of local government to work in conjunction on the project for the purposes of this program. The unit of local government can submit the application at any time, or the private entity may apply for funding directly while providing documentation demonstrating the collaboration.

ELIGIBLE APPLICANTS

Q: If there is a third-party end user with a significant economic impact on the site contingent upon a successful award of this grant application, does that impact the review of application?

A: A third-party end user is not required for the application and Development does not negatively impact an application that does not have an identified end user.

Q: What needs to be included in the agreement between the land bank and city in order to apply?

A: A copy of the legal agreement signed by both parties that demonstrates they will work in conjunction on the project.

Q: Is a former public school building, now privately owned and unused as a school for decades, eligible for funding?

A: Yes, however the private entity would have to enter into an agreement with a unit of local government to apply for a grant.

Q: May multiple units of government submit grant applications for the same brownfield project?

A: Development encourages communication amongst local governments to prevent this from happening.

Q: Is a Community Improvement Corp an eligible applicant?

A: Yes.

Q: Does the brownfield partnership between entities need to be project specific or overarching?

A: The agreement between entities should at least indicate that the partnership is working in conjunction on the specific project.

Q: What restrictions will be put on private owners of brownfields who have not contributed to environmental issues?

A: They will need to partner with a unit of local government.

Q: There is a requirement for a purchase agreement if a brownfield property is owned by an entity that caused or contributed to contamination. At what point in the process does ownership of a property need to transfer from that entity? Prior to application? Award? Completion?

A: Prior to the application.

Q: Can private, for-profit entities apply on their own? Or do they need to have city/county partnership?

A: A private, for-profit entity cannot apply on their own. They must obtain a local government partnership to apply for a grant.

ELIGIBLE PROPERTIES

Q: If a brownfield property is ineligible for the Voluntary Action Program (VAP), is the project still eligible for the Brownfield Remediation program? So, if a VAP Covenant Not to Sue (CNS) is not a possibility, would the project not be eligible for this fund?

A: Submit the application and Development will review. Development will confer with Ohio Environmental Protection Agency (EPA) about eligibility for these projects.

Q: If a property is currently going through the VAP program, is it eligible for the grant funding?

A: Yes.

Q: For asbestos abatement cleanups, do you need to enroll in Ohio VAP?

A: Entering into the VAP is not necessary for asbestos cleanups.

Q: If the property is eligible for VAP, must the funds be used to obtain a CNS? Or can the funds be used for additional uses?

A: Match funds can be used also. If the project is eligible for the VAP process, grant funds or match funds MUST be used to obtain a CNS.

Q: If a property is not taken through the VAP path to gain a CNS will a No Further Action (NFA) be issued at the completion of a project?

A: Ohio EPA cannot issue a CNS or an NFA letter unless the property is in the VAP. For additional questions related to the VAP/CNS or NFA process please contact the Ohio EPA.

Q: Does the property have to go through the VAP? If so, is there any avenue to complete additional potential assessment activities required by the VAP under the remediation grant?

A: If a project is eligible for the VAP, the goal of the program is to obtain a CNS. Applicants can apply for an Assessment Grant.

Q: Are asbestos-only projects eligible?

A: The contamination to be remediated is required at the subsurface level, unless remediation is needed to gain access to the subsurface contamination (i.e., building demolition) in order to contain the contaminant (i.e., asbestos abatement) or a building or structure with documented asbestos is present, the property is eligible to prevent a future release during planned demolition or renovation activities.

Q: Is interior demolition eligible?

A: Yes.

Q: Are Certified Professionals (VAP) required for every project? Or are you accepting projects that only employ Environmental Professionals as well?

A: For projects that are VAP eligible, a Certified Professional is required. Other licensed professionals should be utilized where appropriate based on the type of remediation.

Q: Are vacant school buildings eligible for demolition utilizing this funding?

A: Yes, as long as it meets the other eligibility criteria.

ELIGIBLE COSTS

Q: Are past expenses eligible for a project that is in process? Example: If we have spent \$1 million and need to spend another \$1 million for match, can we ask for \$2 million for clean-up?

A: Only costs incurred during the grant agreement period will be reimbursable. Funds that were utilized previously, within the last two years may be used for match.

Q: Is lead paint contamination an eligible cleanup cost?

A: Yes, lead-based paint removal is eligible but surface-level lead paint cannot be the sole item being addressed.

Q: Is additional assessment an eligible cost under the cleanup tract? If you have a property that needs both (updated assessment or delineation) can you apply for both under a cleanup tract?

A: Development will prioritize assessment and would encourage applicants to apply for that first, then cleanup later. Assessment dictates what the cleanup will be, so Development will fund those first over dual applications.

Q: Is confirmatory sampling for a cleanup an eligible expense under the Brownfield program?

A: Sampling is an assessment activity and therefore the applicant would need to specify their request as an Assessment application, not a Cleanup/Remediation application.

Q: If a brownfield has subsurface issues but also asbestos in other places on the site, can we seek remediation funding to address asbestos too, or only if that portion of the building must be demolished to reach the subsurface area?

A: Yes.

Q: If the project scope includes legitimate demolition costs of \$1 million and \$200,000 in further assessments, can we apply for \$1.2 million?

A: Yes.

Q: If there is a county-owned building that is known to have asbestos and the county would like to demolish the building and use the property as the future site of their health department, will this program pay for the demolition of the building or only the abatement of the asbestos?

A: Demolition is allowable for the Brownfield Remediation Program in order to gain access for remediation purposes or to prevent the spread of further contamination. Both costs are allowable in the Building Demolition & Site Revitalization program.

Q: If a Phase I is conducted and it is suspected that there is contamination from previous uses at the subsurface level and in order to gain access to the subsurface contaminants, it is necessary to demolish the building, will the program pay for the demolition?

A: A Phase II would need to be completed in order to find out the full extent of the contamination. Demolition can be covered if needed to access the contamination for remediation.

Q: Is prevailing wage required only for the “brownfield project” or “demolition project” or is it also required for any redevelopment activities at a project site?

A: Both. Applicants will comply with the provisions of ORC Sections 4115.03 to 4115.16, inclusive, as applicable, with respect to the payment of all mechanics and laborers employed in construction work financed with grant funds.

MATCHING FUNDS

Q: For the county set-aside: How will Development decide which to fund projects that have no match? Are there selection criteria and/or a scoring system?

A: As stated in the guidelines, Development will prioritize the \$1 million dedicated portion to first fund eligible projects that do not have a match available for the project. The projects that don't have match funds available will be reviewed on a first-come first-served basis, and that will determine which projects receive funding.

Q: For existing brownfield projects that have not yet been completed, are previously incurred expenses eligible to be used toward the “owner’s” 25% match funding?

A: Yes, previously incurred expenses may be considered as part or all of the 25% match requirement for up to two years preceding the date of application.

APPLICATION EVALUATION CRITERIA

Q: How will Development exercise discretion when deciding the grant award amount?

A: Grants will be awarded based on first-come first-served and overall eligibility of the application.

Q: Will any project that provides the required information in the application be automatically funded or is there discretion to be applied as to whether a project is funded?

A: Applications will be reviewed on a first-come, first-served basis, and funding is limited, so there is potential not all applicants will be funded.

APPLICATION PROCESS

Q: Is the brownfield application currently available online?

A: The link for the application is now live on development.ohio.gov/brownfield.

Q: Does the Brownfield Remediation Program require a Lead Entity letter?

A: No.

Q: Is the Round 2 of brownfield funding only open for the reserved funds (no-match funds)?

A: Yes. Round 2 will only be open for counties that have not requested the full \$1 million in county set-aside funds. Round 3 will utilize any remaining portion of state funds.

Q: For projects anticipated to be submitted for Round 2 based on timing, will Round 2 open for statewide competition if funds remain?

A: Round 2 will only be open if funds are available within a county for the county set-aside.

Q: Where will the project be listed once identified to receive a grant?

A: Development will notify the applicant directly.

Q: What documents will be required to be submitted with the Brownfield Remediation Program Application, Phase I, Phase II, RAP, etc.?

A: Necessary documents are listed on the online application.

Q: The list of documentation to be submitted includes a “remediation plan.” What does this mean? If the property has known, non-ACM, contamination, is a remedial action plan that has been prepared by an environmental professional required at the time of application?

A: Yes.

Q: What is acceptable as proof of access?

A: Demonstration of ownership, court order, or acknowledgement of control or access to the property.

Q: Unlike U.S. EPA funds where the money is awarded to an entity that will administer those funds, the Brownfield program is project-basis - we submit one project at a time, correct?

A: Correct.

Q: Can private developers apply for brownfield grants for their properties in Round 1 without the county as the partner (but with the city or Port Authority as a partner)? Or must they wait until Round 3 to apply for statewide funds?

A: They can apply now and will need to demonstrate the agreement with a unit of local government to work in conjunction on the project.

Q: Is there an example partnership agreement template?

A: No.

REIMBURSEMENT REQUESTS

Q: Is the Brownfield Remediation Program strictly a reimbursement program and must the project be complete before reimbursement is paid?

A: It is a reimbursement program. Reimbursement requests can be submitted once per month and the project does not need to be completed in order to submit a reimbursement. If costs have not yet been incurred, but documentation is available to demonstrate the anticipated cost (i.e., contract for services), the entity may submit a request for those costs.

Q: Which agency is in charge of administering the funds per county (\$1 million)?

A: The Department of Development is the state agency tasked with overseeing the program. At the local level, a sole entity is not designated to be “in charge”. It is a project-by-project application and based on first-come, first-served applications.

OTHER QUESTIONS

Q: If it is a rolling application when would awards be made and grantees be notified?

A: It is not rolling. Once the due date is passed for the program or program round, all applications will be reviewed.

Q: As a CIC managing the funds, is there a standard matrix that we should use to assess requests for funding?

A: The local administering agency may determine how to access requests for funds.

Q: If an application is determined to be "incomplete" if this is fixed within the 10-day time frame does the application fall behind in the first-come first-served process?

A: Development will work to track those applications that are in the "cure" period to not affect the place in line. The "cure" is to resolve outstanding questions or issues from Development. An empty/incomplete application that was used to create a "placeholder" will be deemed ineligible.

Q: Does first-come first-served mean the time stamp of the submission of the application, meaning projects submitted earlier in each round will be prioritized over projects submitted later in the round but on or before the deadline? If the project requires a follow up during the cure period does the original date of submission prevail or the date of cure response submission in determining first-come first-served?

A: Yes, there is a time stamp upon submission.

Q: Can private entities apply directly in Round 1 without county partnership?

A: No.

Q: It was stated on the webinar that these projects are to be state prevailing wage for the demo side. When I've done demo work using NIP funds in the past with the Land Bank there was no prevailing wage requirement. I bid out the work, contractors gave me a lump sum figure to demolish the structure and we were good to go, I never had to review wage rates or anything. What exactly do you mean state wages apply? Do I have to get wage reports for any demolition project and do they need to be classified as operators and laborers as there isn't a "demolition expert" classification. Just curious as I have never had to deal with wage rates on demolition projects before and will need to inform contractors looking to bid.

A: The Eligible Cost section states that "Grantees will comply with the provisions of ORC Sections 4115.03 to 4115.16, inclusive, as applicable, with respect to the payment of all mechanics and laborers employed in construction work financed with grant funds". It is Development's understanding that this law applies only to projects where 1) the cost of the project is expected to exceed \$75,000, 2) maintenance costs such as waste removal, grass mowing and post-demo site repairs (re-seeding, fixing sinkholes,...), and 3) the costs of hiring professional services vendors, such as asbestos surveyors and others whose work does not alter the property, are excluded. Grantees are responsible for compliance and should coordinate with the Ohio Department of Commerce Bureau of Wage and Hour Administration, to verify project-specific applicability and compliance requirements. The guidelines also says: "as applicable" since if the county hasn't created a land reutilization corporation, then the Board of County Commissioners or another unit of local government would be the Lead Entity, and different rules might apply. Regarding County land reutilization corporation organized under Chapter 1724.04 of the Revised Code though, the Ohio Department of Commerce Bureau of Wage and Hour Administration does considered these a "public authority" pursuant to ORC 4115.03(A). As a public authority, they are subject to Ohio prevailing wage law. The ORC includes exceptions and thresholds, so public authorities should evaluate each project individually.

Q: Since the land bank is running this program on behalf of the counties and land banks are not government entities but nonprofits do I need to advertise a notice to bid in the paper and online etc. or can I just send out a request for quotes to several contractors that have expressed interest in completing demo projects in our area?

A: Follow local procurement practices/requirements.

Q: For the Building Demolition and Site Revitalization program, can funds be used for interior demolition and asbestos abatement? Meaning, the building would remain, but main parts of the interior would be demolished and asbestos would be abated for redevelopment purposes?

A: Yes, but rehab of those structures is not allowable under the program.

Q: If our county has a County Land Reutilization Corporation we do not have to submit a lead entity letter of intent and grant user access for to identify a lead entity for the Building Demolition and Site Revitalization program, correct? The County Land Reutilization Corporation will be the lead entity.

A: A letter of intent for this situation is not required, but Development DOES need to receive the "Grant User Access Form" in Excel file format from the Pike County Land Reutilization Corporation. The Grant User Access Form will identify which staff need access to the application.

Q: On page 2 of the Building Demolition and Site Revitalization Program Guidelines, under Eligible Pre-Demolition Costs it states that Acquisition of Real Estate (no more than 10% of the total request, not to exceed the county auditor property value). Is the 10% the request for the entire \$500,000.00 or is it 10% from the cost of each property that will be demolished?

A: 10% of the total request can be spent as a budget line item on all acquisitions that are made for the county for this program. Each property acquisition also needs to not to exceed the county auditor property value for that property.

Q: Is there a “form” letter of intent for the lead entity?

A: No. The letter of intent is only needed from the board of county commissioners if there is not a land bank established in that county. The letter should list who will be the lead entity for the county, which must either be the Board of County Commissioners or another unit of local government within that county (Word or PDF). The Commissioners could serve as the lead entity and contract with an entity outside of the county (i.e. land bank) to assist with the program. The letter of intent should also demonstrate collaboration with all planned subrecipients within that county.

Q: It looks like the majority of demolition projects in our County will be handled either with the current owner’s permission or based on a condemnation order by a municipality or township. When I submit the application can I list properties that are target properties? If I am in the process of seeking an owner’s permission, but don’t have the paperwork in hand, can I include that in my application?

A: No, you need legal access/authority to the property to include it in your application for funding.

Q: If a Township or Municipality is in the process of getting a house condemned and getting an order for demolition, and we don’t have the owner’s permission, can I include those in my application or do I need to wait until the process is complete and I have an order in hand?

A: You need to wait till you have legal access/authority to the property to include it in your application for funding.

Q: If a township has a house condemned by the fire department (or a zoning inspector/code enforcement department), then goes through the notification process to the owner, gets no response, the township trustees vote on and pass a resolution to demolish the property as a nuisance, is that sufficient to qualify for funding under the program? An example – a township has already gone through the process of condemnation by the fire department, notice to the owner (who refuses to act) and the township trustees have an approved a resolution to have the building removed. They don't have a specific court order, but they have the township trustee resolution – would that be enough to qualify?

A: You need to wait till you have legal access/authority to the property to include it in your application for funding.

Q: With a municipality, they get a property condemned by their code enforcement department and the municipality passes a resolution to demo, does that qualify? Or do they need to get a Court Order for demolition to qualify? An example – a local village has condemned a property, and they know the current owner is deceased. If the village passes a resolution to have the house torn down as a nuisance abatement action, would that qualify?

A: You need to wait till you have legal access/authority to the property to include it in your application for funding.

Q: The guidelines state that *“A subrecipient agreement between a LE and other end users (i.e., other local governments, nonprofit organizations, community development corporations, community action agencies, etc.) must be submitted as part of the application, if applicable.”* Please confirm what is meant here by the term “end user”. Land banks typically use this term to mean an entity that plans to redevelop a site, but in this case, we want to make sure that we are on the same page with Development that here it means the end user of the program funding rather than the end user of the project. For example, a city has approached one of our members about whether it can use the program to demolish a privately-owned, 65-year-old shopping center that has been long vacant, and that the city considers to be a blighted. The owner is willing to redevelop the property but would need to demolish several buildings on the site. The owner is willing to provide the city with consent to demolish and the match funding and the city is willing to serve as the project manager of the demolition. Does Development agree that in this case where the subrecipient would be the city that it would be considered to be the end user even though it is not the redeveloper?

A: Development agrees that the city would be the subrecipient in this instance. There needs to be an agreement in place demonstrating that there is access to demolish buildings on site.

Q: Will the lead entity be able to grant access to the application portal to subrecipients so that they may upload their project data directly? For example, if a lead entity enters into a subrecipient agreement with a large municipality that has match for hundreds of demolition projects, can the municipal staff enter the projects themselves or will the lead entity staff have to undertake this on the municipality's behalf?

A: The conduit for the Development portal system is the individual identified in the user agreement and they will be the one providing the information; however, Development is optimistic that the reporting items are not too burdensome on a grantee.

Q: What are the ramifications to the lead entity if a subrecipient's projects are awarded funds, the projects proceed and are reimbursed but then the subrecipient fails to provide the lead entity with quarterly reporting data?

A: A signed agreement Development will stipulate multiple requirements, a failure to abide by the agreement can result in the repayment of funds/termination of the contract.

Q: This question regards the Brownfield Remediation Program is it relates to demolition and how the two programs may work together. The Brownfield program states "A "brownfield" is defined as 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. The contamination to be remediated is required at the subsurface level, unless remediation is needed to gain access to the subsurface contamination (i.e., building demolition) in order to contain the contaminant (i.e., asbestos abatement). If no known or potential releases of hazardous substances or petroleum are identified by a Phase I property assessment, but a building or structure with documented asbestos is present, the property is eligible to prevent a future release during planned demolition or renovation activities." We are not clear if this means that the Brownfield program can be used to remove asbestos from buildings only in cases where the building needs to be demolished in order to gain access to subsurface contamination that needs to be remediated. Please confirm whether or not this is the case.

A: The purpose of the brownfield program is to address subsurface contamination, but Development recognizes that asbestos in a building can be a hindrance to the cleanup or to prevent future spread if the site is demolished and that is an allowable cost.

Q: Can an applicant apply to the Brownfield program for funding to pay for both the asbestos abatement activity and the demolition activity for a project? If not, can the applicant apply for funding to each program, i.e., apply to the Brownfield program to pay for the abatement and apply to the Demolition program to pay for the demolition?

A: Yes asbestos is eligible and demolition possible under Brownfield. The applicant needs to apply to the Brownfield program first if the site is a brownfield as described in the guidelines. The Demolition program cannot be used on a brownfield property per the legislation that created the program, but asbestos can qualify under both.

Q: In cases where severely blighted properties are collapsing and are too unsafe to enter to undertake an asbestos survey, the required practice is to consider the entire property to be asbestos laden and all of the demolition debris must be taken to a landfill that has an Ohio EPA permit that allows the landfill to take ACM. In these cases, the demolition serves as the abatement. The demolition debris is loaded into dumpster-like boxes that are fully lined and then fully enclosed prior to being trucked the landfill. This procedure is necessary to prevent escape of any of the ACM during the transport, and thus such demolitions are sometimes referred to in the industry as “box-out demolitions”. Is this type of demolition an eligible activity for funding under the Brownfield program?

A: Yes, this example is allowable on a brownfield site. It would be allowable under the Demolition program as well.

Q: In a large property, it may be possible, to survey a portion of the building, but another portion where the roof is collapsing may not be safe to enter. In these cases, the portion that is unsafe would have to be “boxed out”, and the remaining portion of the debris could go to a regular (and less expensive) construction and demolition debris landfill. In these cases, would the entire demolition be eligible activity for funding under the Brownfield program? If not, can we apply to the Demolition program for the non-eligible portion of the building?

A: If the site is a brownfield, only the affected portion and the portion needed to gain access to the subsurface would be allowable. If it's not a brownfield, the Demolition program could remove the building. The Demolition program funds cannot go towards a brownfield site. Development does consider a CNS from the Ohio EPA a threshold to remove the “brownfield” moniker from a location.