



## **Brownfield Remediation Program**

### **Fiscal Year 2024-2025 Program Guidelines**

The Brownfield Remediation Program awards grants for the remediation of brownfield sites throughout Ohio, to assist in the remediation of hazardous substances or petroleum at industrial, commercial, or institutional properties. Remediation includes acquisition of a brownfield, demolition performed at a brownfield, and the installation or upgrade of the minimum amount of infrastructure necessary to make a brownfield site operational for economic development activity.

These program guidelines expand on statutory terms and requirements included in Ohio Revised Code (ORC) 122.65 and 122.6511, as amended by House Bill 33 (HB33).

### **Availability of Funding**

Nearly \$350 million in funds are available and were provided to the Ohio Department of Development (Development) through the 2023 state biennium budget bill, HB33.

Approximately \$175 million will be available in State Fiscal Year (FY) 2024. \$1 million is set-aside for each of Ohio's 88 counties. The remaining funds (approximately \$82 million) will be available on a first-come, first-served basis for statewide eligible projects.

If the \$1 million county set-aside is not obligated by July 4, 2024, these unclaimed funds will become available to all statewide eligible projects. In FY 2025 approximately \$175 million will become available on July 1, 2024, for eligible statewide projects.

Development will utilize 2.5% of total funding for administrative purposes.

### **Grant Periods**

FY 2024: July 4, 2023, to June 30, 2025

FY 2025: July 1, 2024, to June 30, 2026

### **Eligible Applicants**

A "Lead Entity" must be designated for each county. If funded, the Lead Entity will be the award recipient and the responsible party with whom Development will execute a grant agreement for the grant funds. There shall be only one Lead Entity per county. Lead Entities are designated in accordance with the following:

Counties with a population of less than 100,000, or a population of more than 100,000 without a land bank, must submit recommendations to Development to select the Lead Entity. If the county has a

population of 100,000 or more and has a land bank, the land bank is the Lead Entity.

- (a) If the county has a population of less than one hundred thousand according to the most recent federal decennial census, the director shall select the lead entity from a list of recommendations made by the board of county commissioners of the county. The board shall submit a lead entity letter of intent and any other documentation required by the director in order for the director to select a lead entity for that county.
- (b) If the county has a population of one hundred thousand or more according to the most recent federal decennial census and the county does not have a county land reutilization corporation, the director shall select the lead entity from a list of recommendations made by the board of county commissioners of the county. The board shall submit a lead entity letter of intent and any other documentation required by the director in order for the director to select a lead entity for that county.
- (c) If the county has a population of one hundred thousand or more according to the most recent federal decennial census and the county has a county land reutilization corporation, the county land reutilization corporation is the lead entity for that county.

Entities that caused or contributed to the contamination of the property cannot be an eligible partner. If the entity that caused or contributed to the contamination is the property owner, a purchase agreement transferring the property to the applicant or non-liable third party must be included in the application.

## **Subrecipient Agreement**

The Lead Entity of each county shall submit all grant applications for that county. If applicable, the Lead Entity shall submit with a grant application any agreements executed between the Lead Entity with other recipients that will receive grant money through the Lead Entity. Such recipients may include local governments, nonprofit organizations, community development corporations, regional planning commissions, county land reutilization corporations, and community action agencies.

For-profit entities will work directly with lead entities or eligible sub-recipients.

## **Eligible Properties**

Properties are only eligible if they meet the definition of a brownfield. 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.

The applicant must specify which applicable remediation program they intend to comply with/achieve i.e. Voluntary Action Program (VAP), Bureau of Underground Storage Tank Removal (BUSTR), Resource Conservation and Recovery Act (RCRA).

Properties that contain more than one parcel are eligible to apply as one property. The parcels must

be contiguous. Parcels separated only by a street, alley or railroad track are considered contiguous. Additional parcels must meet the eligibility criteria outlined above.

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. An asbestos survey needs to be completed and included in an application if any demolition is intended to occur on the property.

## Grant Categories

Applicants may apply for funds for “Assessment” or for “Cleanup/remediation”.

“Assessment” is defined as a phase I and phase II property assessment BUSTR TIER I/II assessments, RCRA assessments, and an asbestos abatement survey conducted in accordance with applicable remedial program laws and regulations. The maximum award available for assessment costs is \$300,000.

“Cleanup/remediation” is defined as any action to contain, remove, or dispose of hazardous substances at a brownfield. This includes the acquisition (limited to 10% of the total request, not to exceed the county auditor property value) of a brownfield, 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 activity. The maximum award available for cleanup/remediation costs is \$10 million.

## Eligible Costs

- Infrastructure costs, which shall not exceed 20% of the total request. For purposes of this program, “infrastructure” means utilities such as:
  - Water
  - Sewer
  - Electric
  - Gas
- Engineering controls. For projects that use engineering controls as the sole remedy, justification is required. OAC 3745-300-01. (3) "Engineering control" is any structure, system, or barrier, which is protective of human health, safety, and the environment, that effectively and reliably eliminates or mitigates human or important ecological resource exposure to hazardous substances or petroleum on, underlying, or emanating from a property.
- Costs associated with the crafting and submittal of a “No Further Action Letter,” or fee for a “Covenant Not to Sue,” or other submittal for regulatory review.
- Administrative costs, which shall not exceed a maximum of 10% of the total request; administrative costs are those related to submitting reimbursement requests and submitting reporting information, as requested by Development. Administrative costs must adhere to all uniform cost guidance.
- Costs related to employing a certified professional. Applicants will comply with the provisions of

ORC Sections 4115.03 to 4115.16, inclusive, as applicable, with respect to the payment of state prevailing wages for all mechanics and laborers employed in construction work financed with grant funds. For questions on Ohio's Prevailing Wage Law, applicants must consult the Department of Commerce's Bureau of Wage and Hour Administration to receive a determination.

Total project awards are determined at Development's discretion.

## **Ineligible Costs**

- Administrative costs related to application preparation and legal counsel related to the application or project implementation.
- Costs incurred prior to the grant agreement begin date.
- Costs related to site clearance (i.e. clearing, grubbing, removing solid waste).
- Payment of delinquent utility costs.

## **Matching Funds**

For projects awarded through the \$1 million county set-aside, match is not required. For projects awarded outside of the county's set-aside funding, Development can award up to 75% of the total project cost, with a maximum award of \$10 million. Ineligible costs cannot be used as match funds.

## **Sources of Match**

Acceptable sources of match funds may include local government, state government, federal government and by for-profit or nonprofit entities. When applicable, applicants must maintain the required minimum percent match throughout the project. For example, at 50% of the project expenditure, the applicant should submit around 50% of their total committed match. If at the conclusion of the project, financial accounting indicates that the actual cost is less than the estimated, the applicant shall refund the amount necessary to maintain funding percentages in the grant agreement.

For the purposes of this program, future in-kind costs can be considered as an eligible expense for match. For FY 2024, eligible expenses that were incurred on or after July 4, 2021, may be used as match. For FY 2025, eligible expenses that were incurred on or after July 4, 2022 may be used as match.

## **Application Evaluation Criteria**

Applicants shall submit one application per project site. Upon submission of a complete application, the applicant will receive an email from Development confirming that the application has been received. Submission of an application does not ensure the applicant will be awarded funds. Each application will be reviewed based on information received and will be screened for completeness and eligibility. If an application is determined to be incomplete, Development will contact the applicant and the applicant will have 10 business days to provide additional information. If Development determines that an application is ineligible the applicant will be notified that the application has not been accepted for funding.

## Application Process

Each county has been provided \$1 million in set-aside funding through July 4, 2024, and an application must be received in order to claim these funds. Development will monitor applications, and after the \$1 million set-aside per county has been allocated, additional funding (if available) will be awarded through the remaining statewide program funds on a first-come first-served basis per ORC 122.6511.

Lead Entities must submit an application for each project. Additionally, Lead Entities should submit project applications in order of their priority. If an application submitted for a project utilizes a portion of the county set-aside funds and is not an awarded project, the Lead Entity may later submit an amended application to Development, and Development may accept and approve that application for use of funds up to the amount reserved for that county.

Applications awarded after the county's set-aside allocation must include match funds within the application. Development can only award up to 75% of the total costs for these projects. There can be more than \$1 million in requests from a county, but only the first \$1 million of awards do not require the ORC-mandated match outlined above. Awards will be given until funds are depleted. Awarded projects should commence activities within six months of receiving a fully executed agreement. Funds may be reallocated for projects that cannot comply.

To access the application, individuals will be required to login using an existing OH|ID or create a new OH|ID, which provides users with secure access to state of Ohio services and programs. For more information on creating an OH|ID, please click [here](#). Please note that Chrome is the preferred web browser when making the online application submission.

Eligible applicants will be required to provide the following on each application:

- Federal Employer Identification Number (FEIN)
- Application type: assessment or cleanup/remediation
- Applicant contact information (indicate a primary contact)
- Project name
- Former project name(s)
- Name of property owner (if not applicant)
- Project address
- County(ies) to be served
  - If more than one county, indicate primary county
- Indicate if the applicant has access to the property
- Description of current ownership access
- Indicate if the Median Household Income for the area is less than the state-wide average
- Indicate if the community unemployment rate is greater than the current state-wide average
- Indicate any other economically distressed criteria impacting the community served
- Project history
- Number of vacant structures
- Number of occupied structures
- Current conditions of structures
- Description of known or potential project impediments including VAP program eligibility.
- Information on property boundaries
- Identify if property boundaries are governed by a regulatory program other than VAP
- Description of demolition and/or cleanup activities proposed
- Project readiness including start and end date and project timeline
- Description of the redevelopment activities planned
- Specify which applicable remediation program(s) the project intends to comply with/achieve

- Property acreage
- Number of anticipated new jobs
- Number of anticipated jobs retained
- Total project costs
- Total requested amount
- Project budget and match budget including sources. Project Assumption and Cost Estimate (PACE)
- Documentation (as applicable)
  - Supporting resolution, ordinance, or letter of support
  - Survey or plat map
  - Access or purchase agreement
  - Clean hands affidavit
  - Environmental assessment reports
  - Project match documentation
  - Remediation plans
  - Other

## Reimbursement Requests

Upon execution of a grant agreement, Development will provide access to a disbursement request portal. An Ohio Supplier ID is required for disbursement. If the eligible applicant does not currently have an Ohio Supplier ID, the entity will be required to register for an Ohio Supplier ID at [OhioPays.ohio.gov](http://OhioPays.ohio.gov). Lead Entities will only be able to receive an award once a valid Ohio Supplier ID matching the FEIN/SSN provided in the application has been obtained and is verified by Development. Lead Entities that need assistance obtaining an Ohio Supplier ID or need to make changes to an existing Ohio Supplier ID should visit [OhioPays.ohio.gov](http://OhioPays.ohio.gov).

Lead Entities may submit one reimbursement request per month through the *Reimbursement Request Tool* for the Brownfield Remediation Program grant. In no event shall a request for payment be submitted to obtain funds for activities until the applicable grant conditions, if any, have been satisfied. Failure to comply with this provision and the procedures as outlined in the reimbursement manual, the grant agreement, or all applicable laws, may result in delayed payments or the suspension of the applicable award. Such an action will be rescinded upon satisfactory proof that the conditions and procedures are satisfied. Supporting documentation must be provided to receive a reimbursement of funds. Supporting documentation may include contracts, invoices, proof of proper disposal of waste and asbestos containing materials, timesheets, etc. Development may request additional documentation in support of the reasonable and necessary costs.

If the entity is requesting funds for costs not yet paid, a rationale must be provided for the upfront payment. Documentation demonstrating the amount of the requested costs (i.e., signed contract) must be provided before Development will determine if those costs can be reimbursed. Approval of upfront payments may be limited to 20% of the total grant amount.

Please ensure all submitted invoices are dated.

## Reporting

If awarded, grantees must submit quarterly progress reports and a final performance report.

Quarterly report due dates:

Quarter 1 is due April 21

Quarter 2 is due July 21

Quarter 3 is Oct. 21

Quarter 4 is due Jan. 21 of the next calendar year

### ***Final Performance Report and Project Deliverables***

If a project is awarded a grant, certain project deliverables are required before closeout. Documentation of these deliverables depends on the type of award and project scope; therefore, grantees may not be required to provide everything listed below. Development may request additional documentation as is reasonable and necessary to demonstrate project completion. These deliverables should be included in the final report as applicable.

Assessment Grants:

- a) Asbestos Survey
- b) VAP Phase I/II
- c) BUSTR Tier I/II
- d) RCRA assessments

Cleanup/Remediation Grants:

- a) VAP No Further Action Letter (NFA)
- b) Covenant Not to Sue
- c) Other applicable standards documentation as approved by Development.
- d) Updated Phase II with confirmation sampling
- e) RCRA corrective action
- f) Asbestos Compliance Form

## Updates to Program Guidelines

Changes and/or corrections to any part of the program guidelines may be made at any time and will be provided by Development to the Lead Entities and/or posted on Development's website. Development reserves the right to make exceptions to these guidelines on a case-by-case basis for any reason.

## Indemnification

Unless otherwise exempted by law, any Lead Entity and subrecipient shall indemnify and hold harmless the State of Ohio and the Ohio Department of Development, including its agents, officers, and employees against any and all claims, liabilities, and costs for any personal injury or property damage, or other damages that may arise out of or in connection with the Lead Entity's or subrecipient's performance of a contract.

## Definitions

The term "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.

"Lead Entity" means the award recipient and the responsible party with whom the department of development executes a grant agreement for the grant funds.

"Remediation" means any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield. "Cleanup or remediation" includes the acquisition of a brownfield, 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 activity.

"County land reutilization corporation" has the same meaning as in section 1724.01 of the Revised Code.