

OFFICE OF BROWNFIELD REMEDIATION AND DEVELOPMENT
TARGETED BROWNFIELD DEVELOPMENT LOAN PROGRAM – ROUND 16
FREQUENTLY ASKED QUESTIONS

July 20, 2022 (*ADDENDUM DATED AUGUST 11, 2022)
(*ADDENDUM #2 DATED SEPTEMBER 2, 2022)

***The response to Question #20 (Page 8) and Question #21 (Page 9) have been updated to include current contact information for the Department of Labor.**

- 1. What is the maximum amount that an eligible entity can apply for this round of the Targeted Brownfield Development Loan Program? Is there a minimum amount?**
 - The maximum amount that you can apply for in this round is \$4,000,000. The minimum loan amount is \$500,000. DECD will not accept loan application requests below \$500,000.
- 2. Is there a limit to the number of applications that a particular entity can submit?**
 - No, there is no limit to the number of applications that an eligible entity can submit. The applicant should however be able to demonstrate that all work can be handled and completed in a timely manner.
- 3. I intend to submit multiple applications for multiple projects/sites. Do I need to submit separate application forms?**
 - Yes, please plan on submitting separate application forms for each project or site.
- 4. In preparation for Round 16, I already filled out the application forms that were available on the Website from a previous round. Can I submit an application based on a previous application form?**
 - No, the forms have changed since the previous loan round. Please make sure that you use the new Application Form to submit the Round 16 project application. Applications submitted using the older application forms will not be accepted.
- 5. What does the Part A: Threshold Eligibility Section of the Application Form cover?**

The following threshold items are covered under Part A of the Application Form. An Applicant or Application may be denied funding after review of Part A of the Application Form.-

- i. Proof that the site is a brownfield as per [C.G. S. Sec. 32-760](#)
- ii. Proof that the Applicant has no direct or related liability for the conditions of the brownfield.

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- iii. Proof that Applicant has access or will have access to the property, site control or path to site control
 - iv. Proof that the Applicant is registered to do business in the State of CT and is in good standing – no pending lawsuits, liens filed and tax arrears.
- 6. I have a Certificate of Legal Existence from the Office of the Secretary. In the last round, we were required to also obtain a Letter of Good Standing as well from the Department of Revenue Services (DRS). Is it no longer required to obtain the DRS Letter of Good Standing?**
- Due to the time taken to obtain the [Letter of Good Standing from the Department of Revenue Services](#), DECD will not be requiring it during the Application stage. The DRS Letter of Good Standing may be required to be provided during the DECD Assistance Agreement phase.
- 7. Our organization is registered to do business in another state but is not in CT? Do I still need to provide the Certificate of Legal Existence?**
- Yes, all private entities who are part of the application will need to be [registered to do business in CT](#) (Certificate of Legal Existence from the Secretary of the State).
- 8. Where do I access the forms and how can I submit my application?**
- The forms can be accessed at the Office of Brownfield Remediation and Development (OBRD) Website (www.ctbrownfields.gov). Under Explore Funding Opportunities, please click on the [Targeted Brownfield Development Loan Program](#) Page.
 - All applications (along with attachments) shall either be
 - [PREFERRED METHOD] Uploaded onto a Sharepoint folder that will be provided by OBRD upon receipt of a request email sent to Brownfields@ct.gov [Please make sure to include name of applicant and brief project name in the subject line]; OR
 - Emailed to Brownfields@ct.gov [Please make sure to include name of applicant and brief project name in the subject line].
- 9. Who are the eligible entities who can apply for the program?**
- Potential brownfield purchasers and current brownfield owners including, but not limited to, for-profit and non-profit entities, municipalities as defined by [C.G.S Section 32-760 \(12\)](#), Connecticut brownfield land banks, as defined by [C.G.S Section 32-760 \(22\)](#), economic development agencies or regional councils of governments, as defined by [C.G.S Section 32-760 \(6\)](#). Persons or entities responsible for the contamination are ineligible. All applicants must provide proof of access to the site, site control or path to site control.

10. The applicant, the property-owner, or one of the related affiliates in the application is also the Certifying Party in a Transfer Act transaction. Will the application be automatically denied at the pre-application stage?

- C.G.S. Sec. 32-765 allows the loan program to be available to potential brownfield purchasers and current brownfield owners who have no direct or related liability for the conditions of the brownfield. Involvement of the Certifying Party in the application to the DECD will not be an automatic disqualifier only if the applicant can provide proof that the Certifying Party is not actually the person or entity that caused the contamination but rather assumed the responsibility for the contamination via the requirements of the Transfer Act. The burden of proof, however, lies on the Applicant to provide to the DECD that the entity/owner nor any partner, member, officer, manager, director, shareholder, subsidiary or affiliate of such owner/entity has not caused the contamination or has not willfully continued with operations that have maintained and/or caused additional contamination for which the funding is sought after taking up ownership of the property. It is the Applicant's responsibility to also prove that the applicant team is not otherwise responsible, directly or indirectly, for the discharge, spillage, uncontrolled loss, seepage or filtration of the hazardous substance, material or waste, (C.G.S. Sec. 22a-427, 22a-451 and 22a-452), does not have a pending order or notice of violation from the DEEP to correct the pollution (C.G.S. Sec. 22a-432 and 22a-433), and/or knowingly or willfully has violated any environmental law. The DECD Commissioner reserves the right to approve or deny an application on a case-by-case basis.

11. What criteria will DECD be using to score and award funds?

- Please see the NOFA for details on the criteria that DECD will be using to score and award the funds. But more generally, DECD will be assessing the shovel readiness of the project including completeness of the remediation and redevelopment plans, the economic and community development impact, location in opportunity zones, increase in property value, job creation, support of state and DECD policies and other initiatives, the loan to value ratio, developer equity, and private leverage of DECD funds and applicant experience. The Application Forms, we believe, are mostly straightforward and self-explanatory. The key to a good application is providing clear responses to the questions or providing the information/documents that have been requested. Please be certain that all response fields are completed. If any application response fields are not filled in, DECD may deem the application incomplete.

12. Is there a match required for the loan funding?

- Yes, participation in the program will require a minimum developer equity of at least 10% of the total project cost. Equity may include assessment costs, local bonding,

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cash, administrative expenses, predevelopment expenses, property acquisition costs, deferred developer fee and other investments by the applicant deemed acceptable by the Commissioner of the DECD.

13. Will the loan be forgivable if certain criteria and milestones are achieved?

- No, DECD will not be offering loan forgiveness options with this loan round.

14. What are the loan terms that DECD will be offering?

- The loan duration can be up to 30 years, offered rate will be 3% and a debt service coverage of 1.15 will need to be maintained. Please see the NOFA for more details on the minimum loan terms. The loan terms are non-negotiable.

15. Will DECD be expecting collateral for the loan?

- All applicants will be required to provide collateral to guarantee the successful completion of the project and repayment of the DECD Loan. Minimum collateral would be a mortgage lien on the property, and either a limited corporate or personal guaranty.

16. What are the criteria that need to be satisfied to be termed as a Brownfield, so the project is eligible to be funded under the Program?

- C.G.S. Sec 32-760 defines Brownfield as “any abandoned or underutilized site where redevelopment, reuse or expansion has not occurred due to the presence or potential presence of pollution in the buildings, soil or groundwater that requires investigation or remediation before or in conjunction with the redevelopment, reuse or expansion of the property.” DECD will be making sure that the proposed project meets the statutory definition of a brownfield. Projects proposed on sites that do not meet the statutory definition of a brownfield will not be considered for funding. **Some aspects that DECD will consider in determining whether a site meets the statutory definition of a brownfield include, but are not limited to whether the property is abandoned or underutilized and whether the presence or potential presence of pollution is the primary obstacle preventing the site from being redeveloped, reused or expanded, given the condition of the site.** Entities responsible for the contamination on a site are ineligible to apply for a brownfield project on that site.

Some hypothetical examples are below. These examples are intended to generally illustrate how DECD will determine whether a site meets the statutory definition of a brownfield. These examples are not intended to illustrate every situation that may occur as each site has particular set of facts and circumstances that are unique to that site. DECD will determine whether a particular site is a brownfield and whether a particular project proposed for that site will be funded based on the facts and circumstances that apply to that particular site.

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- E.g. 1: The site is a residential complex built in the 1950s. The Phase I indicates that the site has not been used for any other purposes. There are plans to rehabilitate and repair the residential units to bring it up to code. But in the course of performing the repairs it is realized that there were hazardous building materials used in the original construction. Can this project be considered as Brownfield?
 - No, this will not be a Brownfield under the state's definition because this is an existing complex that is being rehabilitated to bring up to code. The site is also not being redeveloped, reused or expanded.
- E.g. 2: The site is a residential complex built in the 1950s. The Phase I indicates that the site has not been used for any other purposes. The condition of the structures is significantly deteriorated. It has been decided to demolish and rebuild and minimally expand the residential complex since it has passed its useful life. Due to the age of the structures, there is some abatement work that will be required and potentially some soil remediation due to secondary contamination during abatement and demolition work. Can this project be considered as Brownfield?
 - No, this will not be considered a Brownfield under the state's definition since the main reason for abatement/demolition is not the potential contamination but the deteriorated condition of the structures.
- E.g. 3: The site is a residential complex built in the 1950s. The Phase I indicates that the site may have been used for other potentially contaminating uses prior to it being developed as a residential complex. The condition of the structures is significantly deteriorated. It has been decided to demolish and rebuild and minimally expand the residential complex since it has passed its useful life. Due to the age of the structures and past operations at the site, there is potential remediation and abatement work. Can this project be considered as Brownfield?
 - Yes, this site will be considered a Brownfield under the state's definition because in comparison to E.g. 2, there are potential remediation issues on the property along with abatement of the structures.
- E.g. 4: The site is a residential complex built in the 1950s. The Phase I indicates that the site has not been used for any other purposes. The condition of the structures is significantly deteriorated. It has been decided that the property will substantially be redeveloped (potentially to a new use). Due to the presence of contaminants and the age of the structures, there is abatement work that is required prior it to being redeveloped but the extent of the work is hampering redevelopment plans. Can this project be considered a Brownfield?
 - This site may be considered a Brownfield under the state's definition because in comparison to E.g. 2, the presence of pollution appears to be the primary factor preventing redevelopment of the significantly underutilized site to its highest and best end use permitted by zoning and

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market demands. Additional project information may be needed to make a determination.

- E.g. 5: The site is a former agricultural farm. It is slated to be redeveloped into a community kitchen. Past pesticide usage on the farm has resulted in potential contamination of the soil and groundwater. Can this project be considered a Brownfield?
 - Yes, this can be considered a Brownfield project because the intended end use of a community kitchen cannot be achieved due to the potential contamination caused by the use of pesticides for farming.
- E.g. 6: The site is an abandoned textile mill built in the 1850s. Due to its past use of chemicals and dyes in the process, there are several potential pollution issues in the building preventing the reuse of the mill for other purposes. Due to the age of the structures there are also hazardous building materials present. The mill is being considered to be redeveloped into a residential complex. Can this project be considered a Brownfield?
 - Yes, this satisfies the definition of a Brownfield since the reuse of the mill has been prevented by the presence or potential presence of the pollution within the buildings. The mill can no longer continue to operate as such and is being proposed for redevelopment once the pollution/contamination has been remediated.
- E.g. 7: The site houses a gas station, which is currently in operation. There is potential soil and groundwater contamination due to the existing use, including the presence of leaking underground tanks. The site is proposed to continue operating as a gas station. Can this project/site be considered a Brownfield?
 - No, this cannot be considered a Brownfield because the site is not vacant or underutilized, and there is no redevelopment, reuse or expansion project involved.
- E.g. 8: The site houses an abandoned gas station – there is potential soil and groundwater contamination due to the existing use including the presence of leaking underground tanks. The site is zoned for mixed-use and is being redeveloped to a mixed-use complex. Can this project/site be considered a Brownfield?
 - Yes, this can be considered a Brownfield in comparison to E.g. 7, because the site is potentially contaminated and is currently underutilized. Proposed plans include redevelopment of the site to the highest and best use, allowed by zoning.
- E.g. 9: The site is currently a parking lot in the center of Downtown. The municipality and developer would like to see it developed to a mixed-use development. Past uses (and an ELUR restricting the site to commercial or

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industrial use) require the site to be remediated prior to its redevelopment for residential use. Can this project/site be considered a Brownfield?

- Yes, this can be considered a Brownfield because the site is underutilized and is being considered for the highest and best end-use, and remediation is required prior to the redevelopment activities.
- E.g. 10: The site has a past history of industrial and commercial use dating back to the turn of the last century. Approximately one-third of the site is currently occupied for warehouse storage, a gym and laundromat but a majority of the usable square footage site is still underutilized due to the presence of hazardous building materials in the structures. The vacant portion of the property is proposed to be remediated and reused/redeveloped for business expansion.
 - Yes, this satisfies the definition of a Brownfield. In this circumstance, DECD would consider this site to be underutilized since a significant portion of the property is not in use and there is inherent pollution present in the structures.

17. If I am successful in receiving the grant, when is the project start date? When can I start the work and will I be reimbursed for work immediately?

- The project start date will be the date of the award letter from DECD. All eligible expenses and invoices are reimbursable beginning on the award letter date. However, loan funding can be reimbursed until a DECD Assistance Agreement (Contract) has been fully executed.

18. A consultant is helping me with the application for this grant. Can the consultant get reimbursed from this grant?

- No, consultant services hired by an Applicant prior to the grant award are not eligible for reimbursement from the grant. Also, preparation of the Brownfield Loan application is not an eligible expense.

19. Do you anticipate that there will be another round in the near future?

- On June 30, 2021, Governor Lamont signed Public Act No. 21-111 (House Bill No. 6690) that authorized \$25M each for the brownfield program for FY 2022 and 2023, for a total of \$50M. The State Bond Commission (SBC) has to approve the allocation of the authorized funds so they can be released competitively for funding as per the enabling statutes. OBRD hopes to conduct a minimum of one loan round next year (2023) provided that DECD receives SBC approval. However, the exact timing and the type of offering will be finalized at a later date.

20. Can you please explain what the new prevailing wage legislation is, as per C.G.S. Section 31-53c?

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- The applicability of prevailing wage as per the statutes is dependent on various factors including, but not limited to, the amount of cumulative DECD funding received for the proposed project/project site over the years, the entity entering into the grant contract with DECD, the funding sources for the overall project, the entity that will be holding the construction contract (primary recipient versus a private entity), the nature of the improvements (public versus private), and the nature of the end uses (public versus private).
- DECD recommends that every applicant review and seek their own legal advice on whether the new legislation affects their proposed project or approach the Department of Labor (DOL) with their specific question. For a formal DOL determination on the applicability of the prevailing wage rates for your project, please contact **Mary Toner, Wage Enforcement Agent, Public Contract Compliance at the CT Dept. of Labor** (mary.toner@ct.gov; 860.263.6606).
- It is DECD's understanding that that pursuant to C.G.S Section 31-53c (effective July 1, 2018), when DECD provides any financial assistance worth a total of at least \$1 million to any business organization for any construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair project of any property owned by a business organization, the contract for such project shall include a prevailing wage provision project of a business organization, the contract for such project shall include a prevailing wage provision. The legislation only applies to contracts signed on or after July 1st, 2018 and does not apply to any DECD assistance agreement executed before July 1st, 2018. However, any additional supplemental funding to an existing contract will trigger the prevailing wage legislation. Please note that once triggered, the prevailing wage legislation **applies to the total construction contract (even the part not funded by DECD)**.

The following are definitions as per the statute:

- Project: any construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any property owned by a business organization.
- Financial assistance: any and all forms of loans, cash payments (or grants), extensions of credit, guarantees, equity investments, tax abatements, or any other form of financing totaling one million dollars or more.
- Business organization: any sole proprietorship, partnership, corporation, LLC, association, firm or other form of business or legal entity.

The Department of Labor has also advised that they will be considering all (cumulative) phases of a project when reviewing the applicability of Sec. 31-53c. In other words, the construction/redevelopment phase will be considered together with the remediation/abatement phase.

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In addition, funding from all DECD sources will be considered cumulatively while assessing the threshold trigger. (E.g.: A project/client has previously received \$500K in DECD Urban Act and is applying for \$500K in Brownfield funding. The total cumulative funding is \$1 million and therefore, will trigger the \$1M funding threshold while considering the new rule).

21. Does the new prevailing wage legislation as per C.G.S. Section 31-53c, affect an Applicant that is a municipality?

- The applicability of prevailing wage as per the statutes is dependent on various factors including, but not limited to, the amount of cumulative DECD funding received for the proposed project/project site over the years, the entity entering into the grant contract with DECD, the funding sources for the overall project, the entity that will be holding the construction contract (primary recipient versus a private entity), the nature of the improvements (public versus private), and the nature of the end uses (public versus private).
- DECD recommends that every applicant review and seek their own legal advice on whether the new legislation affects their proposed project or approach the Department of Labor (DOL) with their specific question. For a formal DOL determination on the applicability of the prevailing wage rates for your project, please contact **Mary Toner, Wage Enforcement Agent, Public Contract Compliance at the CT Dept. of Labor** (mary.toner@ct.gov; 860.263.6606).
- It is DECD's understanding that the new legislation affects municipalities if they will be partnering with a private partner on the remediation and redevelopment project, especially if the property is owned by the private business organization and the construction/remediation contract will be held by the private entity. It may also be noted that C.G.S. Sec. 31-53 already requires public works projects (for the portion funded by the state) undertaken by DECD's municipal clients to be subject to prevailing wages. The threshold for new construction projects is \$1 million and for renovation projects is \$100,000.

22. Is a Phase I mandatory for the application?

- Yes, we will be expecting that a Phase-I Environmental Site Assessment is included with the submission.

23. I am simultaneously applying for funding from DOH/CHFA programs for other portions of the redevelopment project and cannot show proof of award yet. Can I receive a conditional award pending a decision from DOH/CHFA?

- If you have applied and are waiting on CHFA/DOH award announcements or plan to apply for the same soon, DECD may provide only a conditional award pending CHFA/DOH approvals. The conditional award will expire one year after the DECD award, or after the CHFA/DOH funding announcement, whichever occurs earlier.

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24. The space provided in the application forms is limited. Please can I provide an attachment with additional information to respond to the questions?

- DECD encourages all applicants to be as succinct as possible with their responses to the questions in the application forms. DECD will only accept responses to the questions included in the space provided within the forms. Material presented outside of the forms may not be reviewed. Incomplete applications will be rejected. The response fields have been restricted to include a limited number of characters. If your response text does not appear within the visible response box, then a portion of your response may be cut off when the form is signed. Please adjust your answers so that all text is visible once the document is signed.

25. I have a question that is not covered above. How can I get a response?

- Please feel free to send any questions you may have to brownfields@ct.gov (preferred) or contact the dedicated OBRD hotline number at 860.500.2395 by Wednesday August 3, 2022. All responses to questions not included in this document will also be posted on the OBRD website (as an addendum) by Monday August 8, 2022.
- Additionally, OBRD will be conducting online **Walk-in Question/Answer Hours over TEAMs** at the following times:
 - Wednesday, July 27, 2022 (1 - 2PM)
 - Wednesday, Aug 3, 2022 (1 - 2PM)
 - Wednesday, Aug 10, 2022 (1 - 2PM)
- **TEAMs Info:**

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only) +1 860-840-2075

Phone Conference ID: 564 547 362#

26. What is the due date of the full application form and when can I hear back about award decisions?

- Please see the NOFA for the detailed schedule. All applications should be submitted by 3:00 PM on Friday, September 23, 2022. Please note that DECD **will** accept submissions prior to this deadline. Please make sure you receive a receipt of application notice from OBRD staff.
- DECD hopes to make the grant award announcements in the 1st or 2nd week of December 2022.