

**OFFICE OF BROWNFIELD REMEDIATION AND DEVELOPMENT
TARGETED BROWNFIELD DEVELOPMENT LOAN PROGRAM – ROUND 13
FREQUENTLY ASKED QUESTIONS**

- 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.

- 2. We have worked with DECD's Office of Brownfields previously. Do I need to submit a pre-application form prior to submitting the full-application form?**
 - The pre-application step is a pre-requisite step for submitting a full-application form. The pre-application step will assess the applicant and project eligibility to apply for the program. The following will be reviewed at the pre-application stage-
 - Proof that the site is a brownfield as per [C.G. S. Sec. 32-760](#)
 - Proof that the Applicant (including parent entity) has no direct or related liability for the conditions of the brownfield.
 - Proof that Applicant has access or will have access to the property, site control or path to site control
 - Proof that the potential development partner is registered to do business in the State of CT and is in good standing – no pending lawsuits, liens filed and tax arrears.

All applicants must be approved at the pre-application stage prior to being invited to submit a Full Application Form for any proposed project. Once you submit a pre-application form, you will receive a receipt notice from DECD. Once DECD's review is completed, applicants will be sent an Approval/Denial Notification via email for each application submitted. Please contact brownfields@ct.gov for status of the pre-application review if you do not receive one closer to the deadline specified on the Notice of Funding Availability (NOFA) – February 10, 2021. DECD advises clients to start working on the full-application form prior to receiving DECD sign-off if they are fairly confident that there will be no major issues for the approval.

- 3. I have a Certificate of Legal Existence from the Office of the Secretary. Do I need to obtain a Letter of Good Standing as well from the Department of Revenue Services?**
 - Yes, please plan to obtain both the [Certificate of Legal Existence from the Office of Secretary](#) and the [Letter of Good Standing from the Department of Revenue Services](#) (DRS). The Certificate of Legal Existence indicates that the company/entity is registered to conduct business in CT while the Letter of Good Standing from the DRS

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indicates that the company/entity does not owe DRS any taxes. An advisory note that some of these certificates/letters may take time to obtain – so please plan on requesting the same in a timely manner from the appropriate state agency prior to the posted deadlines.

4. I have a Letter of Good Standing from another state. Is a Letter of Good Standing required from the State of CT?

- Yes, you will need to be [registered to do business in CT](#) (Certificate of Legal Existence from the Secretary of the State) and will need to submit a [Letter of Good Standing](#) (from the Department of Revenue Services).

5. I intend to submit multiple applications for multiple projects/sites. Do I need to submit separate pre-application forms?

- Yes, please plan on submitting separate pre-application forms for each full application form that will be submitted for each project or site.

6. I have already submitted a pre-application form and have received approval from DECD to proceed with submitting a full application form. Certain aspects of my proposed project have changed (example, I have new partners or the project address will change). Will I need to obtain approval from DECD again?

- The answer depends. If the responses to any of the questions will change based on the new details of your proposed plans, you may need to resubmit your pre-application. The full application and the preapplication both constitute your application submittal. Please feel free to contact DECD with questions.

7. Where do I access the forms and how can I submit my application?

- The forms can be accessed at the OBRD Website which is www.ctbrownfields.gov. Under Explore Funding Opportunities, please visit the [Targeted Brownfield Development Loan Program](#) page. Please email all completed forms to brownfields@ct.gov. In case of larger attachments that are difficult to send via email, you may send a cloud-share link (such as Dropbox) to the above listed address, provided it does not require DECD staff to create a new account to access the files. If you do not have a cloud-share link, please contact brownfields@ct.gov and a secure sharefile-folder (cloud-based provision) will be sent to you, where you will be able to upload the files.

8. 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](#)

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[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.

9. 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.

10. 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.

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11. 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, 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.

12. 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.

13. 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 negotiable and DECD is willing to match the private financing terms within statutory authority.

14. 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. Additional collateral options include but not limited to, mortgage of other assets owned by the project partners/parent company and/or corporate/personal guaranty etc.

15. 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

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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.

- 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 uses, 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.

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- 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 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 market demands. Additional project information (collected in the Full Application phase or after) will be needed to make a determination. If DECD is not able to make the judgement based on the pre-application form, the decision may be made during the full application stage.
- 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 is taken care of.
- E.g. 7: The site houses a gas station, which currently remains in operation. There is potential soil and ground water contamination due to the nature of the existing use including some leaking underground

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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 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 ground water contamination due to the nature of the existing use including some 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 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.
- 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 existing pollution 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 since DECD considers this site to be underutilized since a significant portion of the property is not in use and there is inherent pollution in the structures.

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

- 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. But it is DECD's understanding that that pursuant to C.G.S Section 31-53c (effective July 1, 2018), when DECD provides

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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.

It is DECD's understanding that Brownfield funding made available to a business organization is excluded if the project is limited to environmental studies, remediation, hazardous building material abatement or demolition only (i.e. the scope of the project does not include any form of construction or fit the definition of "project" above). If remediation design or abatement work is part of the construction contract, then the whole construction contract will be subject to prevailing wage rules. DECD considers applications that include the redevelopment component of a project more competitive than one that doesn't.

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.

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 \$500M in Brownfield funding. The total cumulative funding is \$1 million and therefore, will trigger the \$1M funding threshold while considering the new rule).

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17. Is a Phase I mandatory for the Preapplication?

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

18. 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 will only provide a conditional award pending CHFA/DOH approvals. The conditional award will expire in a year after the DECD award or after the CHFA/DOH funding announcement, whichever occurs earlier.

19. 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.

20. 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 Monday, February 1, 2021. All responses to questions not included in this document will also be posted on the OBRD website (as an addendum) by Wednesday, February 10, 2021.

21. 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 full-application forms should be submitted by 3:00 PM on March 8, 2021. Please note that DECD will accept submissions prior to this deadline but only after you receive our sign-off after the pre-application review. DECD may choose to invite shortlisted applicant for a video-conference interview in the 2nd or 3rd week of April. DECD hopes to make the loan award announcements by the end of April.
- Summary of important loan deadlines
 - Jan 25, 2021 @3:00 – Deadline to submit loan pre-apps
 - Feb 10, 2021 @3:00 – Deadline to receive DECD sign-off to submit the full-application form
 - March 8, 2021 @3:00 – Deadline to submit the loan full-application form.