

Brownfields Redevelopment

Basics for local elected officials

In today's economic environment, it is important for a local community to make the most efficient use of its real property tax base and financial resources.

Do you have old, abandoned or underutilized properties blighting your community landscape? Are potential environmental liabilities restricting or limiting the property's reuse? Do you want to become proactive in clearing these properties for reuse?

If you answered yes to any of these questions you should apply for brownfield grants and loans that assist in redeveloping properties into vibrant businesses by leveraging local development efforts with state and federal government technical and financial resources.

Brownfield sites range from large abandoned industrial complexes to the former corner gasoline station. They often sit vacant for years, becoming eyesores that add little value to the community, and, in some cases, often detract from positive economic development efforts. Far too many communities are restricted from using a commercial or industrial site because of brownfield concerns.

Determining whether or not the site is actually contaminated often is the first step in turning the site back into a viable resource for the community.

Unfortunately, most communities lack the financial resources to investigate and clean up sites on their own. State and federal officials have recognized technical and financial gaps that exist in the brownfield

The state of Indiana defines a brownfield as...

Industrial or commercial property that is abandoned, inactive or underutilized, on which expansion or redevelopment is complicated due to the actual or perceived environmental contamination.

redemption process in local communities and have developed a series of grants and low-cost loans specifically designed to fill those gaps. The primary agencies for brownfield funding include:

- ◆ United States Environmental Protection Agency (EPA);
- ◆ Indiana Department of Environmental Management (IDEM);
- ◆ Indiana Department of Commerce (IDOC); and
- ◆ Indiana Development Finance Authority (IDFA).

Federal Grants

The EPA is the federal agency with the mission of protecting human health and the environment. In the early-to-mid 1990s, there was a growing awareness that EPA planned to take action on only a small percentage of the thousands of hazardous waste sites within its realm.

Still, the threat of EPA action at these sites often stymied development efforts and very few communities or developers were willing to invest in properties with perceived or actual environmental contamination.

To address this problem, EPA developed a multi-prong approach to brownfield redevelopment, which included funding pilot studies across the country. The original set of pilot studies has grown into the four primary funding programs utilized by the EPA to address issues associated with brownfield properties. These programs include:

- ◆ The Brownfield Assessment Grant Program;
- ◆ The Brownfield Revolving Loan Fund Grant Program;
- ◆ The Brownfield Cleanup Grant Program; and,
- ◆ The Brownfield Job Training and Redevelopment Demonstration Grants.

All of these programs and notices of available funds are published in the Federal Register.

The Brownfield Assessment Grant Program provides up to \$200,000 per site, which can be used to inventory, characterize, assess and plan activities at one or more brownfield site.

Portions of the funding may be used to develop a local government site

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cleanup program and/or the purchase of insurance covering site investigation. The program utilizes a two-step grant application process designed to reduce the preparation work for grant applicants.

The Brownfield Revolving Loan Fund provides funding to a maximum of \$1 million with a 20 percent local match requirement. Sixty percent of the grant funds are to be used to capitalize a revolving loan fund and make loans to an eligible entity, with the remaining 40 percent for grants to an eligible entity or nonprofit organization for site cleanup. This program also utilizes a two-step grant application process designed to reduce the preparation work for grant applicants.

The Brownfield Cleanup Grant program provides up to \$200,000 per site to cleanup the property owned by the grant recipient. The Brownfield Job Training and Redevelopment Demonstration grant provides up to \$200,000 per eligible entity over a two-year period and can be used to train individuals for employment in the environmental field.

State Programs

In addition to the federal government, Indiana has developed its own Brownfields Program, involving three state agencies. IDEM provides technical oversight and reviews brownfield projects completed within Indiana. IDFA and IDOC administer a range of grants and loans available for various uses by local communities.

IDEM's Brownfields Program:

- ◆ Provides technical assistance to local communities, developers and consultants and statewide outreach on

brownfield projects;

- ◆ Coordinates the Inter-agency Brownfields Task Force;
- ◆ Serves as the state liaison to EPA; and
- ◆ Provides grant assistance and technical oversight to Indiana's local units of government.

IDEM can also provide Phase I Environmental Site Assessments and Phase II Site Investigation services on selected local projects.

Besides providing technical assistance to local communities, IDEM also offers a range of legal instruments that provide liability protection for communities during the redevelopment process. These instruments include Comfort Letters, Site Status Letters, No Further Action Letters, Certificate of Completion and Covenant Not to Sue, and Bona Fide Prospective Purchaser Agreements.

These instruments vary significantly in the level of protection guaranteed to the landowner and the local community should always consult an attorney familiar with environmental issues to determine what level of liability protection best meets its needs.

IDFA administers significant funding mechanisms to assist local redevelopment efforts including:

- ◆ Site Assessment Grant Incentive (SAGI) available from the Indiana Brownfields Fund;
- ◆ Low Interest Loan Incentive (LILI) also from the Indiana Brownfields Fund;
- ◆ Petroleum Cleanup Grant Incentive (PRGI);

and

- ◆ Tax credits under the Voluntary Cleanup Tax Credit (VRTC).

All of the IDFA Programs are competitively funded.

The Indiana Brownfields Fund provides significant funds through the SAGI and the LILI. The SAGI currently provides grants up to \$50,000 per applicant per funding round. IDFA has recently added two extra funding rounds for a total of four per calendar year and increased funding from \$500,000 to \$1 million per calendar year.

The grants must be used for costs associated with an environmental investigation at a brownfield site, such as Phase I or II assessments and asbestos and lead-based paint surveys. IDFA recently modified the selection criteria and has implemented a new on-line application process to help streamline the grant-making process.

LILI currently provides loans of up to \$700,000 with interest rates of 2.5 percent to 3 percent, depending on the term of the loan. These loans must be used for costs associated with cleanup and/or demolition at a brownfield site, such as soil and groundwater contamination cleanup, asbestos/lead abatement and additional investigations.

Grants and loan eligibility from the Indiana Brownfields Fund is limited to cities, towns and counties; however, private parties can be co-applicants for grants and third-party recipients for loans.

In 2001, the General Assembly transferred \$9 million from the Excess Liability Trust Fund to the Indiana Brownfields Fund to promote the cleanup of petroleum contamination

On the Web

EPA Web site: www.epa.gov/R5Brownfields

IDEM Web site: www.IN.gov/idem/land/brownfields/

IDFA Web site: www.idfabrownfields.com/

IDOC Web site: www.in.gov/doc/communities/

at brownfield sites. The PRGI was developed to administer these funds as the first state funding source for actual cleanup and regulatory closure available in grant form. Grants can be as much as \$250,000 per applicant per round and must be used for costs associated with petroleum cleanup for removing underground storage tanks, preparing a Corrective Action Plan and IDEM-approved cleanup and monitoring.

IDFA recently added two funding rounds for a total of four per calendar year and modified the selection or scoring criteria to be more consistent with the new SAGI selection criteria. These grants are also limited to cities, towns and counties; however, private parties can be third-party beneficiaries of the funding.

As of January 1, 2004, any Indiana taxpayer cleaning up an Indiana brownfield site may apply for the VRTC. The VRTC is available to any taxpayer meeting the statutory eligibility requirements set forth in IC §6-3.1-23 *et seq.*, and is subject to one or more of the following state taxes: 1.) the state gross retain and use tax; 2.) the adjusted gross income tax; 3.) the financial institutions tax; or 4.) the insurance premiums tax.

IDFA will accept VRTC applications on a rolling basis, but the credits will be awarded in chronological order starting the tax year that the cleanup is completed. The VRTC is currently set at the lesser of 10 percent of the total cost of cleanup or \$100,000. Last December, IDFA published VRTC Guidelines on its Web site to assist applicants with obtaining the credit.

IDOC has a significant number of grant, loan and tax incentive programs available to local communities, which can be utilized for redevelopment, business attraction and retention projects and infrastructure improvements. Of particular note to brownfield projects is the Community Development Block Grant (CDBG) Program. Projects completed under this program must meet one of three national objectives:

- ◆ Benefit low- to moderate-income persons;
- ◆ Prevent or eliminate slums or blight; or
- ◆ Meet other urgent community development needs.

The Technical Assistance Program for Planning Grants, a competitively funded CDBG program, is available for items such as planning studies or preliminary engineering reports. This program has a continuous application period, but funding is limited. The grants are funded to a maximum of \$50,000, with a 10% minimum local match requirement.

Another competitively funded CDBG program, the Community Focus Fund (CFF), is used for final design and construction or cleanup activities relative to a particular project site that has been identified to meet the intended

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goals. Infrastructure needs and remediation requirements are included as eligible activities.

This program requires significant effort to bring the project into a fundable range and a minimum 10 percent local match. It is typically offered twice a year with specific filing dates and deadlines. The process requires a field visit from IDOC representatives and assistance will be provided to the community to increase its potential for receiving funding. All applications are ranked according to criteria established by IDOC.

Successful brownfield redevelopment projects often involve over-coming a series of obstacles to reach the goal of creating a productive site that adds value to the economic development efforts of a community. By utilizing resources provided by federal and state brownfield programs, many communities can overcome these obstacles and turn properties once perceived as liabilities into assets.

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