



Indiana Brownfields Program
an Indiana Finance Authority Environmental Program

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October 19, 2012

Mr. Adam Horst
Director, Indiana State Budget Agency
Indiana Statehouse, Room 212
Indianapolis, IN 46204

Re: IFA—Indiana Brownfields Program Budget Transmittal Letter, FY2014/15 Biennium

Dear Director Horst,

This letter outlines the Indiana Brownfields Program's budget request for the biennium beginning July 1, 2013 and ending June 30, 2015. It provides an overview of the Indiana Brownfields Program ("Brownfields Program"), including a description of its programs and functions, details on accomplishments, and objectives for the next biennium.

Mission, Program Origin, State Funding History

The mission of the Brownfields Program is to encourage and assist business investment in the redevelopment of brownfields properties by helping communities, via technical and financial assistance, identify and mitigate environmental barriers that impede their economic growth. A "brownfield" is an abandoned, inactive or underutilized parcel of real estate on which expansion or redevelopment is complicated due to the presence or potential presence of environmental contamination. Abandoned gas stations, former drycleaners, automotive parts suppliers, agricultural co-ops, and historic local dumpsites are examples of some of the projects that have been funded by the Brownfields Program.

The Environmental Remediation Revolving Loan Fund (Brownfields Fund) was established in FY 1998 under IC 13-19-5 with a one-time, \$10,000,000 transfer from the IDEM—Hazardous Substances Response Trust Fund. The authorizing statute was modified in FY 2000 and further modified in FY 2005 to move the program and all related activities to the Indiana Finance Authority ("Authority"). Petroleum Remediation Grant (PRG) funding is also managed by the Authority and was originated in 2001 with a one time, \$9,000,000 transfer from the IDEM—Excess Liability Trust Fund to specifically finance cleanup of petroleum-contaminated brownfields sites. In addition to the initial funding of these programs, a biennial appropriation in the amount of \$5,000,000 was provided for the 2000-01, 2002-03 and 2004-05 biennia, and \$2,500,000 was provided for the 2006-07 and 2008-09 biennia. \$1,000,000 was appropriated for the 2010-11 biennium; however, Brownfields Program funding was suspended in November 2009, requiring the unspent portion of the appropriation (\$800,000) to be reverted to the State's General Fund.



Since the suspension of State funding, the Brownfields Program has reduced its staff while continuing to provide technical assistance and offer limited financial assistance (in the form of a loan or an award of professional services managed by the Brownfields Program) using federal brownfields funding awarded to the State by the United States Environmental Protection Agency (U.S. EPA). To encourage and facilitate economic development in the State, the Brownfields Program historically awarded grants for environmental site assessment and remediation activities and low-interest and partially forgivable loans to benefit Indiana communities and help finance the acquisition of, and environmental assessment, remediation, and demolition costs at, brownfields sites.

Federal Funding History

Background on EPA grants – The Brownfields Program receives U.S. EPA CERCLA Section 128(a) grant funding. 128(a) funding can be described as “core” program funding that is awarded through a competitive proposal process among the 50 states and eligible tribes. In addition, U.S. EPA annually holds a competitive grant round for assessment, clean up, and revolving loan fund (ARC) grant funding. Since September 2007, the Brownfields Program has targeted federal funding as a priority and has been awarded the following competitive brownfields grants:

- \$400,000, two assessment grants (September 2007)
- \$359,204, a Revolving Loan Fund (RLF) grant (June 2008)
- \$2,000,000, an RLF grant (September 2008)
- \$4,039,000, a Leaking Underground Storage Tank (LUST) American Reinvestment & Recovery Act (ARRA) grant (July 2009)
- \$2,500,000, a brownfields RLF ARRA grant (September 2009)
- \$500,000, a supplemental RLF grant (September 2010)
- \$500,000, a supplemental RLF grant (September 2011)

TOTAL Competitive Federal Funding Awarded in the last five years: \$10,298,204

American Recovery & Reinvestment Act (ARRA) grants – U.S. EPA awarded the Brownfields Program \$2,500,000 in RLF ARRA grant funding in September, 2009. In addition, in July 2009, the Brownfields Program received \$4,039,000 in Leaking Underground Storage Tank (LUST) – ARRA grant funding which it managed on behalf of the Indiana Department of Environmental Management (IDEM) and used to address sites contaminated by petroleum released from leaking underground storage tanks. The LUST ARRA grant expired on June 30, 2012, and the end date for the brownfields RLF ARRA grant is June 30, 2013. Both the brownfields RLF and LUST ARRA grants have been used over the past three years to cover eligible Brownfields Program administrative costs. With the LUST ARRA grant having been fully expended as of June 8, 2012, and the brownfields RLF ARRA grant end date of June 30, 2013, the Brownfields Program has lost/will be losing these funding sources that helped offset costs of Brownfields Program operations during the period that State funding has been suspended.

Current Federal unobligated competitive grant balances & expiration dates (as of September 30, 2012):

- Unobligated brownfields ARRA RLF grant balance: \$293,895 expires June 30, 2013
- Unobligated regular RLF grant balance: \$1,591,888, expires July 30, 2013

Trend on 128(a) funding awards – Over the past two years, all states, including the IFA Brownfields Program, have experienced a cut in the amount of 128(a) funding awarded by U.S. EPA. For FFY12, the

cut was nearly 17%, followed by an additional 3.5% cut for FFY13. This nearly 20% cut over two years has resulted in a loss of \$184,368 in funds awarded to the Program. The federal 128(a) budget for FFY14 is reportedly going to be cut while the number of eligible applicants continues to increase, which is likely to result in further cuts to the State's current primary funding source. The 128(a) grant currently funds about 61% of the Program's total personnel expenses. While the Brownfields Program has been selected by U.S. EPA, based on its grant performance, to be pre-funded for its FFY14 award with \$500,000 of unspent FFY12 federal dollars, it is unclear how much additional FFY14 funding the Brownfields Program will receive during the normal proposal process which began in October 2012.

Loan Repayments (Federal and State)

Over FY14/15, based on current outstanding loans, the Brownfields Program will generate approximately \$587,848 in loan repayments annually. Since the suspension of State appropriations, the Brownfields Program has been using loan payments to pay Brownfields Program expenses that are either ineligible for reimbursement with federal grants or for which there is insufficient federal grant funding available. With the predicted reduction in federal 128(a) funding and the expiration of the remaining two federal grants, the Program will have to dip more significantly into this pool of funds to cover operating expenses, further reducing the Program's ability to fund site-specific activities.

Program Activities (Organizational Chart)/Liability Clarification & Closure Determination Letters

Financial – Since the suspension of State funding in 2009, the Brownfields Program has offered financial assistance (in the form of a loan or an award of professional services managed by the Brownfields Program) using federal brownfields funding awarded to the State by U.S. EPA. To encourage and facilitate economic development, the Brownfields Program historically awarded grants for environmental site assessment and remediation activities and low-interest and partially forgivable loans to benefit Indiana communities and help finance the acquisition of, and environmental assessment, remediation, and demolition costs at, brownfields sites.

- a. State assistance that is currently suspended pending further funding:
 - i. *Stipulated Assessment & Remediation Grants* - Environmental site assessment grants were made available to communities to complete environmental investigations at brownfields sites. Assessment costs that were eligible for funding included Phase I and Phase II site evaluation activities and related sampling. Remediation grants were available for costs associated with eligible and approved cleanup activities. The stipulation associated with these grants required local investment match, the amount of which was a percentage of the grant award that varied depending upon an applicant's population and median household income.
 - ii. *Federal Matching Grants* - Grant funding in an amount that equals a community's required match (up to 20% of an award) was provided to Indiana communities/grantees that were awarded brownfields grant funding from U.S. EPA.
 - iii. *Petroleum Remediation Grants* – The Brownfields Program provided funding for site assessment and remediation activities for petroleum-contaminated brownfields.
 - iv. *Low-Interest Loans* – The Brownfields Program awarded low-interest loans to

communities for acquisition of, and environmental assessment, remediation and demolition activities at, eligible brownfields sites.

b. Federal assistance that has expired/is close to expiration:

- i. *Trails & Parks Initiative Grants* – The Brownfields Program received two, \$200,000 U.S. EPA assessment grant awards in September 2007, which it used to fund a Trails & Parks Initiative (TPI) for site assessment work on brownfields, on which the planned future use was trail, greenspace, park or other recreational use. The Authority matched the awards with an additional \$200,000 in funds. Through the TPI, the Brownfields Program completed a total of 34 Phase I/II assessments, assessing approximately 108 acres at 15 sites in 11 Indiana communities, resulting in the development of 2.6 linear trail miles and the redevelopment of 37 acres of land.
- ii. *Revolving Loan Fund Loans* – With federal funds from RLF grants, the Brownfields Program funds low-interest loans to eligible borrowers to conduct soil and groundwater remediation and finance demolition of contaminated and/or obsolete structures to facilitate remediation and redevelopment of brownfields. The Brownfields Program initially received an RLF award from U.S. EPA of \$2,000,000 in September, 2007, to which \$359,204 of loan repayments on a 1997 RLF grant were added. The Brownfields Program received Supplemental Funding awards totaling \$1,000,000 in September, 2010 and September, 2011, totaling \$3,359,204 in federal Brownfields RLF funding. The Authority matched the awards with an additional \$671,840 in funds. As of September 30, 2012, \$1,591,888 remains available to be loaned.
- iii. *American Recovery & Reinvestment Act (ARRA)* – U.S. EPA awarded the Brownfields Program \$2,500,000 in RLF grants and a \$4,039,000 Leaking Underground Storage Tank (LUST) program grant which the Authority managed on behalf of IDEM. The LUST ARRA grant financed 35 projects, resulting in the removal of 85 USTs, 26,092 tons of petroleum-impacted soil, and 32,979 gallons of petroleum-impacted liquid. In conjunction with these projects, the Brownfields Program removed 2 above-ground storage tanks, 7 fuel oil USTs, and 11 hydraulic lifts using state petroleum remediation grant funds (because they were ineligible LUST ARRA expenses). Twenty-seven (27) No Further Action letters have been issued for these sites. The LUST ARRA grant was fully-expended as of June 8, 2012. The Brownfields Program has closed four (4) loans using brownfields ARRA funds totaling \$2,350,000. Five sites are being/were remediated in four communities through these loans. The Brownfields Program has a loan closing scheduled for mid-December, 2012, which will commit the balance of unspent brownfields ARRA RLF funds. Repayments on these loans will not start until January 2013.
- iv. With the grant period end dates for the Brownfields Program’s remaining two federal grants approaching in June and July of 2013, and continued cuts in 128(a) funding awards, federal funds will essentially be gone and the Brownfields Program will no longer be able to offer any financial assistance to address brownfields contamination except, perhaps, from loan repayments.

c. Auto Sector Brownfields Assessment Initiative: As part of the close out of a 1997 award of

an RLF grant by U.S. EPA to the Brownfields Program, the Program agreed to use some of its loan repayments to fund an initiative to provide environmental site assessments and site stabilization activities in Indiana communities to help address the growing problem of idled, abandoned, and closed facilities related to the downsizing of the automotive manufacturing sector. Through this initiative, the Program has provided over \$500,000 in services at 6 former auto sector sites in 5 communities. Remaining funds for this initiative are down to roughly \$25,000.

- d. Supplemental Environmental Projects (SEPs): In partnership with IDEM's Office of Enforcement ("OE"), the Program has received funding to conduct brownfields SEPs. Since November 2009, four (4) brownfields SEPs have been accepted by IDEM's OE generating \$204,226 for brownfields projects. Since 2007, a conscious effort has been directed at brownfields SEPs, resulting in 24 brownfields SEPs being conducted for \$718,856. To date, 24 brownfields projects have been funded in 18 communities to conduct activities such as Phase I & II environmental site assessment, groundwater monitoring, remediation, waste removal and demolition.

Technical – The Brownfields Program performs environmental technical oversight and review for all projects receiving financial or legal assistance, as well as projects receiving U.S. EPA brownfields grants. The Brownfields Program's technical review is consistent with the cleanup policies followed by the Indiana Department of Environmental Management (IDEM), however also provides flexibility to achieve a balance between environmental protection and economic development. Technical review by Brownfields Program project managers also results in the issuance of No Further Action and Site Status letters and contributes to liability clarification letters drafted by the Brownfields Program's General Counsel and determinations regarding appropriate land use restrictions for environmental restrictive covenants as a part of site reuse determinations. Since 1998, the Brownfields Program has issued 136 No Further Action (NFA) letters and 169 Site Status Letters (SSLs). In the past two fiscal years, 45 NFAs and 51 SSLs have been issued.

Legal – The Brownfields Program issues Comfort and Site Status Letters that attempt to eliminate concerns of stakeholders that their involvement in a brownfields redevelopment project will result in cleanup liability. If, upon review, the Brownfields Program determines that current site conditions meet applicable cleanup criteria, a Site Status Letter states that no response actions will be required. Brownfields Program legal counsel also makes determinations for U.S. EPA grantees regarding eligibility of sites for federal petroleum brownfields funding, draft environmental restrictive covenants, reviews No Further Action determinations, and requests for waiver or reduction of delinquent property taxes on brownfields. As pertains to federal grants, Brownfields Program legal counsel ensures compliance with assistance agreement terms and conditions and reporting obligations. In addition, Brownfields Program legal counsel works cooperatively with IDEM on legislation impacting remediation statutes. Since 1998, the Brownfields Program has issued 200 Comfort Letters (CLs). In the past two fiscal years, 80 CLs have been issued.

Community Relations/Outreach – The Brownfields Program promotes its financial, legal and technical assistance through various education and outreach activities. The Brownfields Program provides educational opportunities about brownfields redevelopment and the Brownfields Program via its web site and various written materials, as well as one-on-one assistance through phone calls, meetings and workshops. Resource materials include forms to request services, fact sheets, guidance documents and newsletters. Brownfields Program staff participate in and present information at various national and

local workgroups, advise federal and local educational programs, and coordinate and participate in project meetings, workshops and conferences. Brownfields Program staff also support Indiana communities applying for and/or recipients of U.S. EPA brownfields funding (e.g., the issuance of state support letters and site eligibility determinations for use of petroleum funding).

Indiana Economic Development Corporation (IEDC) – The Brownfields Program has developed a strong working relationship with the IEDC on economic development projects that are occurring on contaminated sites. Over the past several years, the Program has assisted with technical review and liability clarification involving large economic development deals including Progress Rail Services in Muncie and the Cummins expansion in Seymour. The Brownfields Program has been lauded by corporate and legal representatives from these companies for its abilities and efforts and the crucial role the Brownfields Program has played in helping these businesses reach a comfort level in bringing their business to these sites.

Organization Chart – When State funding for the Brownfields Program was suspended in November, 2009, four positions were eliminated. Two of the four were contract employees and the remaining two positions are shown as “vacant” on the attached organizational chart, in addition to the Administrative Assistant position, which is now shared between Authority environmental programs. *See attached.*

Program Accomplishments/Return on Investment (ROI) Results

When the Brownfields Program was awarding grants, it tracked the private and additional public investment in a brownfields site corresponding to the grant award as a metric. Past recipients of State-funded grants were required to match the State’s assistance with additional investment. Since 2006, the Brownfields Program has been conducting an annual Return on Investment (ROI) survey to determine the additional investment in *all* brownfields sites for which the Program has provided legal, technical or financial (state and federal) assistance. For the FY12 ROI report, the ROI for actual funds leveraged for all brownfields program projects (financial assistance and other) was \$53:1. While this calculation includes several large projects such as Lucas Oil Stadium and the JW Marriott in Indianapolis, even when you back those two projects out, the average additional public and private investment in a Brownfields Program project is \$593,445 and \$808,850, respectively. For FY12 ROI report, the ROI for actual funds leveraged for IFA-funded projects was \$9:1.

The second metric formerly reported by the Brownfields Program was the number of brownfields sites readied for redevelopment based on the issuance of a Comfort, Site Status, and No Further Action determination letter. Over the past six years, the number of such letters requested and issued by the Brownfields Program has grown exponentially, on the order of a 300% increase (from 20 letters issued in 2007 to 81 issued in 2012).

Next Biennium Objectives

While the Brownfields Program has found ways to continue to provide financial and technical assistance to Indiana communities following the suspension of State funding in 2009, the outlook for continued access to competitive federal brownfields funding is bleak. With the forecasted continued reduction in federal 128(a) grant assistance and rapidly-approaching grant period end dates for current federal grants, without the appropriation of State funding for brownfields activities, the Brownfields Program will have no financial assistance to help cash-strapped Indiana communities undertake the activities necessary to return their brownfields properties to productive use. The Brownfields Program can no

longer afford to operate on federal funding alone as it has done for nearly three years as a result of the dramatic drop in federal funds it will experience by the end of FY13 as the grant periods for two significantly-sized grants close.

Therefore, at this time, the Brownfields Program would like to request \$3,000,000¹ for the next biennium in order to resume offering a State-funded grant assistance program for site assessment, remediation and/or demolition² activities on brownfields sites. If Brownfields Program funding is restored, the Authority anticipates it could provide the assistance that was historically provided and described above (an average of \$5.3M/FY in grants and loans) with similar or better results. If stipulated grant incentives are renewed, the combined targeted ROI for \$1 invested of State brownfields funding for assessment/remediation grants would remain at \$10:1.

Total Operating Budget Request: \$3,000,000

The Indiana Brownfields staff and I are confident that any restored general fund appropriations will be managed in the most efficient and effective manner for the taxpayers of Indiana, as we have demonstrated with the Brownfields Program's stewardship of federal brownfields funds over the past three years following the suspension of State funding.

Sincerely,

James P. McGoff
Director of Environmental Programs

¹ \$1.5M per year; \$500,000 for compensation/benefits and \$1M to reinstate a grant program(s)

² Demolition is an eligible State-funded activity under IC 13-19-5 so long as it is "necessary or convenient to complete remediation activities" or is "in conjunction with assessment and remediation activities necessary or convenient to prepare a brownfield for redevelopment." IC 13-19-5-1(3)(B),(4)

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BROWNFIELDS PROGRAM
August 2012

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