



EPA's Brownfields in New England

- Land and Community Revitalization •

Brownfields

& Opportunity Zones

September 2019



US EPA Programs Supporting Community Revitalization in Opportunity Zones

The USEPA program assistance listed below represent the best matches for site investment in Opportunity Zones



Land Cleanup

- **Brownfields**
- Superfund
- Resource Conservation and Recovery Act
- Leaking Underground Storage Tanks



Infrastructure Investment

- WIFIA
- State Revolving Funds - Drinking Water and Clean Water
- Urban Waters



Technical Assistance

- Opportunity Zone Workshop (OCR)
- Land Revitalization
- Superfund Redevelopment Initiative



Air Quality & Energy

- Nonattainment Redesignation
- Energy Star



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What is a Brownfield?

“real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”

- The term is often used to describe a wide range of federal, state, and non-regulated sites.
- Their cleanup and reuse protects the environment, reduces blight and takes development pressures off greenspace and working lands.
- Sites are often found in “Environmental Justice” communities where there is a need to change the perception the property and the disproportionate burdens on the community.



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Opportunity Zones and Brownfields:

A Shared Geography

- States selected Opportunity Zones based upon demographics and revitalization needs
- Typically overlap with legacy commercial and industry
- Sites are often centrally located and have existing infrastructure (roads, sewer, electrical, highway, rail) that can be reused or updated
- Many need cleanup assistance



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Opportunity Zones

added to the tax code
by the Tax Cuts and
Jobs Act on December
22, 2017

- An Opportunity Zone (OZ) is a state-nominated and IRS certified **census tract** in or near a low income community.
- Investors with capital gains tax liabilities may receive favorable tax treatment for investing in “**qualified opportunity funds**” (QOFs).
-But what does that mean for brownfields?



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Opportunity Zones and Brownfields

added to the tax code
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- Communities and developers **need to attract QOF investment** to their project or OZ.
 - Brownfield resources could be used on sites within OZ census tracts to help attract QOFs to projects.
- It is estimated QOFs will meet up to a third of project costs.
 - **Site assessment and cleanup costs could be eligible QOF investments** if costs prepare the site for vertical development and economic reuse.
- Projects in Opportunity Zones may get **preference in selection for federal grants**.
 - It was a “special consideration” factor last year in the EPA Brownfield grant competition.



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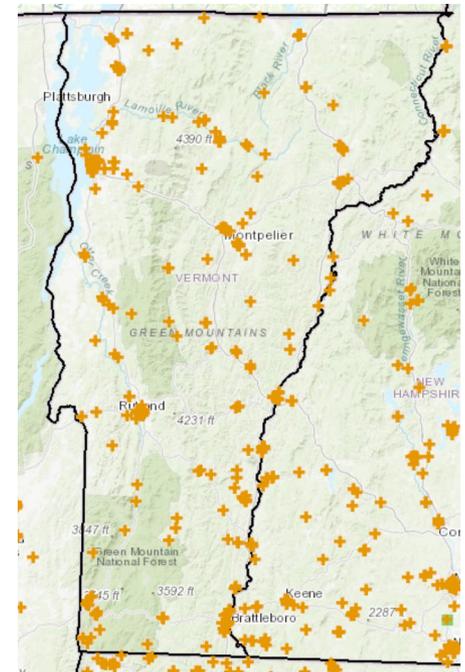
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Summary of Brownfields Successes

Leveraged Activities in New England

- \$444 million in EPA brownfields grants awarded to New England communities
- 3,061 sites have been assessed with EPA brownfields grant funds
- 424 Sites cleaned up
- 21,110 jobs leveraged
- Over \$3.2 billion leveraged from cleanup, construction, and redevelopment of brownfields

Source: ACRES – September 2018





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Federal Liability Protection



FIRST – CERCLA liability – strict, joint and severable, retroactive

THEN – 2002 amendment to CERCLA established the national brownfields program.

- added **new landowner liability protections** (and clarified the existing innocent landowner protection)
- **Provided funding for grants** for the assessment and cleanup of brownfields
- Under the above, **some municipal liability protections existed**, particularly in cases of “involuntary acquisition” where continuing obligations to properly maintain and restrict use of the site were met.

NOW – BUILD (Brownfields Utilization, Investment, and Local Development) Act - March 2018

- Liability protections were **expanded and clarified**



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Federal Liability Relief

- **Liability Exemption** for acquisition through seizure for tax delinquency, bankruptcy, abandonment, or other law enforcement
- **Liability Exemption for State or Local government properties acquired prior to 1/11/02:** cannot have caused or contributed to contamination (BUILD Act)
- **Liability Defense** for Bona Fide Prospective Purchase (BFPP)
 - Rule #1: Have an AAI/ASTM Phase I Assessment done prior to purchase (note the shelf life!)



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All Appropriate Inquiry (AAI)



Federal Liability Relief

AAI before ownership can provide some **liability protection.**

(for an innocent landowner, a contiguous property owner, or a bona fide prospective purchaser)

- Must not have an “affiliation” with a liable party
- Must not have caused or contributed to any contamination on site
- **Within a year before acquisition** there must have been an ASTM/AAI Phase I report done by a qualified environmental professional.
 - Key components must be **updated if the report is older than 6 months.**
 - Property acquisition includes properties acquired as gifts or through zero-price transactions.

For More Information:

<https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries>



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Continuing Obligations

Federal Liability Issues

- There are other things you must do as well after acquiring the property:
 - Exercise appropriate care by taking reasonable steps which includes:
 - Stopping any continuing releases
 - Preventing any threatened future releases
 - Preventing or limiting human or environmental exposure to the site.
 - Comply with land use restrictions.
 - Comply with information requests.



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Federal Funding

- Paying attention and doing these things ensures a higher probability of success when you apply for an EPA cleanup grant or try to borrow funding through an EPA revolving loan fund grant.
- **Speaking about Money....**



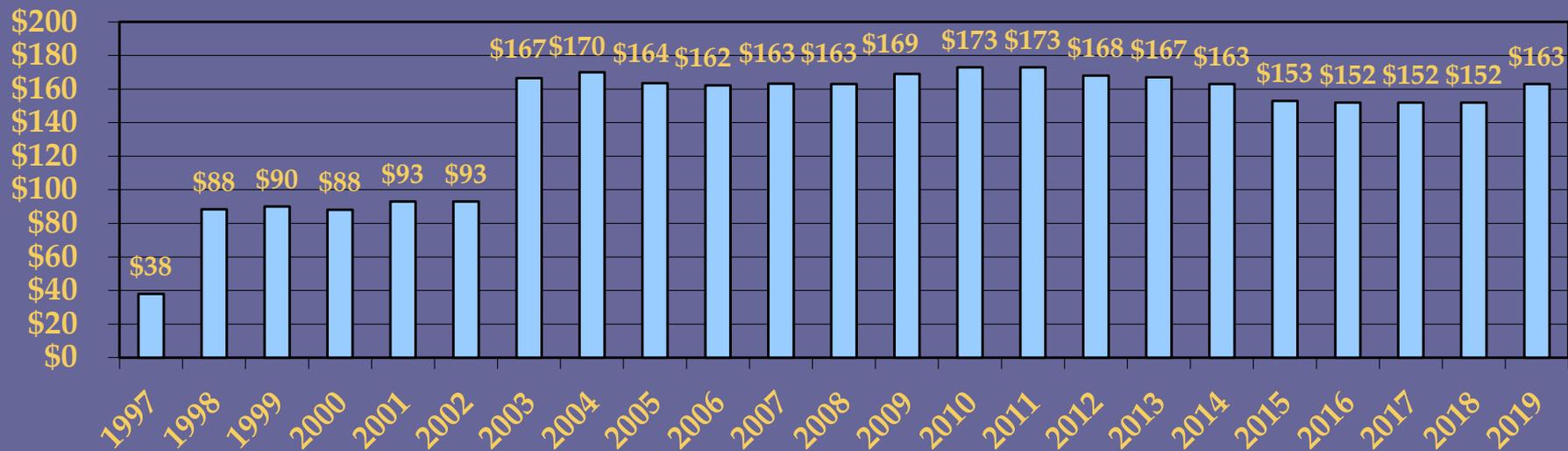


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Annual Brownfields General Appropriation

Fiscal Years 1997 - 2019 in millions of dollars



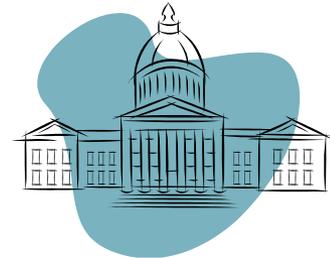


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Eligible Entities for EPA Grants

- Eligible Entities
 - States
 - General Purpose Unit of Local Government
 - Tribes
 - Redevelopment Agencies
 - Land Clearance Authority
 - Councils of Government
 - Non-profits (BUILD Act)
 - 501c3
 - LLCs comprised of 501c3's
 - LLPs comprised of 501c3's
 - Community development entities per 45D(c)(1)

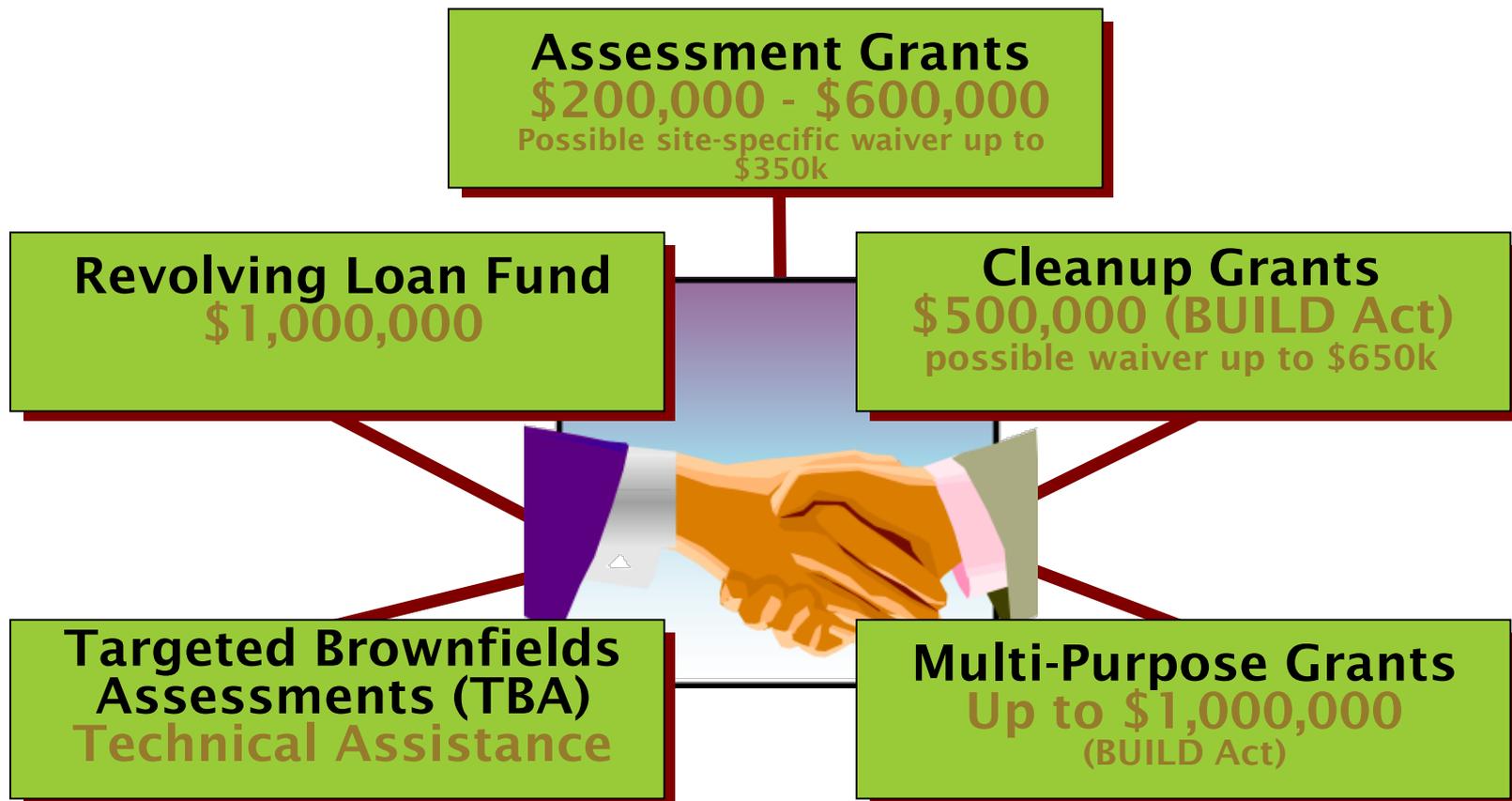




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Assistance and Cooperative Agreements





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Potential Roles for Municipal Partners



- Acquisition and long-term ownership
- Acquisition and interim ownership with subsequent transfer to third party
- Leasing by municipality
- Acquisition and “simultaneous” transfer to a third party
- Collaboration with the property owner
- Transfer tax liens
- Incentives to promote redevelopment





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State/Tribal Regulatory Coordination

- EPA coordinates with State/Tribal Environmental Authorities in a number of ways:
 - States approve sites for **petroleum eligibility**.
 - Properties are assessed and cleaned up according to state regulations through **State/Tribal Voluntary Cleanup Programs**.
 - EPA provides States/Tribes with **funding for staff that oversee state response program**.



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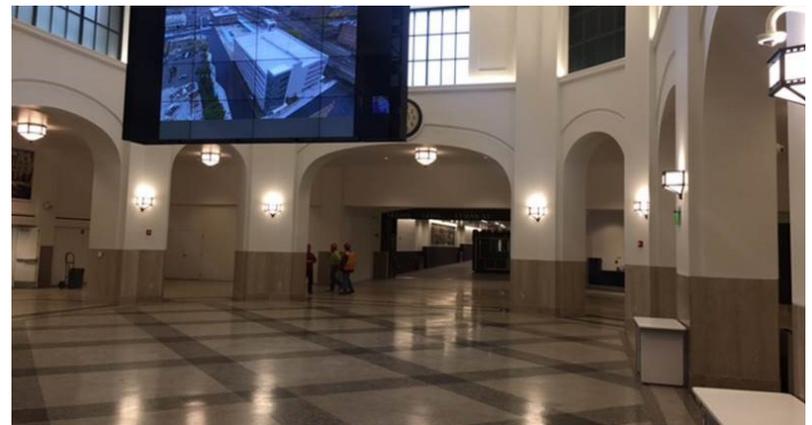
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Union Station – Springfield, MA

- Historic train station and adjacent hotel **contaminated with metals, VOCs, and petroleum**
- City of Springfield invested **\$203,000 in EPA Assessment** funding and Springfield Redevelopment Authority received **\$400k in EPA cleanup** funding
- **Leveraged over \$90M** in federal, state, and local funding and won **Phoenix Award** at 2017 Brownfields Conference

Brownfields Success Story

Brownfields Assessment & Cleanup





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United Community Family Services– Griswold, CT

Brownfields Success Story

Brownfields Assessment & Cleanup

- **Former Triangle Wire site** was used for the manufacturing and coating of wire products leaving the site with environmental challenges when abandoned in 1995.
- The Town of Griswold invested **\$200K in EPA Assessment** funding and, after acquiring the property for back taxes, **\$200K in EPA Cleanup** and **\$200K in DECD Municipal Brownfield** funding.
- **UCFS purchased the property in 2015**, and construction was completed 2018. The new **\$6.8M health care facility** has been open since July 2018 and employs upwards of **40 staff**.



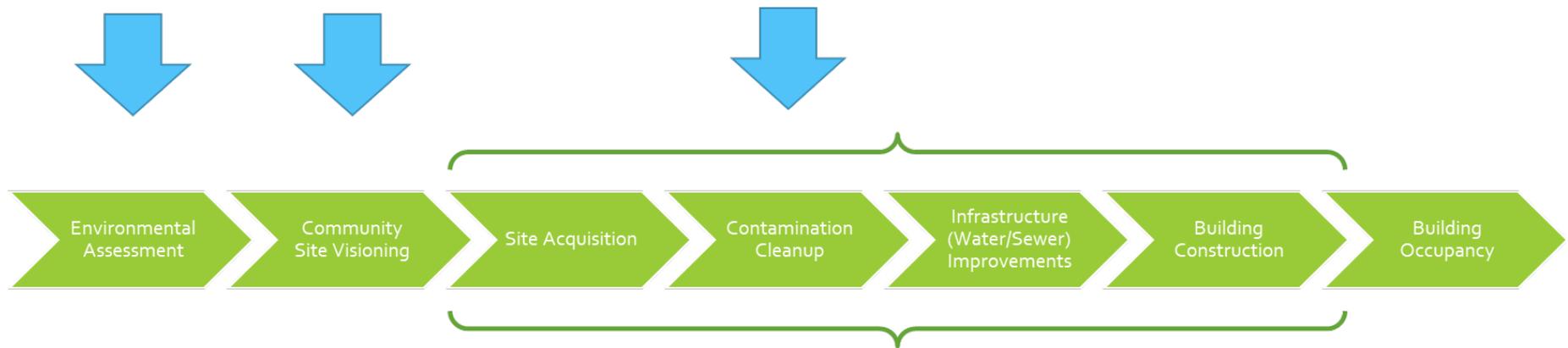


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Federal Assistance:

US EPA Brownfield grant funds can pay for these activities



Site readiness is valuable to private fund investors.

Plan ahead!



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Upcoming FY20 Competition

Guidelines anticipated by October 2019 with **proposals due late Nov/early Dec.**

- Guidelines outreach sessions by EPA
- Winners announced spring 2020
- Grants awarded summer 2020
- Funding available to awardees October 2020



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Available Resources

- EPA Region 1 Brownfields
<https://www.epa.gov/brownfields/brownfields-and-land-revitalization-connecticut-maine-massachusetts-new-hampshire-rhode>
- EPA Headquarters
<https://www.epa.gov/brownfields>

**REGISTRATION
OPEN!**

December 11-13, 2019
with pre-conference
programming December 10

Join us at the
**LOS ANGELES
CONVENTION CENTER**



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Visit brownfields2019.org for
more information!