

State Brownfields Incentives

General

There are four general approaches to brownfields financing:

- Direct grants and loans;
- Income tax credits
- Property tax credits (State authorization of local property tax credit)
- State-facilitated tax increment financing

Some states include a menu that includes all three, but they can also be viewed as alternative approaches.

Grant-Loans. The advantages and disadvantages of direct grants and loans are fairly obvious. If a state can budget for a well-funded grant-loan program, it can make a big difference, particularly if the level of assistance is predictable (something the developer can count on in his/her feasibility analysis). However, most states that operate grant-loan programs are insufficiently funded and the level of predictability is poor. If this is the case, it may be better to concentrate on funding site assessments only.

Income Tax Credits. The biggest advantage of tax credits over the other approaches is that they can be structured to be fully automatic, i.e. if the developer has qualifying expenses, he/she gets the credit. This allows the developer to pro forma the incentive, making the tax credit, arguably, a more effective incentive in “leveling the playing field between brownfields and greenfields.” Of course, the counter-argument is that some projects will be assisted that don’t need the incentive to work.

Property Tax Credits/Abatements. Property tax credits/abatements also can be structured to be fully automatic, something the developer can pro forma. The draft Iowa proposal appears to be negotiated rather than automatic. This has pluses and minuses, similar to income tax credits.

State-Facilitated TIF Financing. If a state is looking to make their brownfields investments go further in terms of leveraging other dollars, state-facilitated TIF financing should be seriously considered. The advantages are:

1. More money into deals - TIF financing, with a potential to capture taxes for as long as 30 years, can put more dollars into a deal than is typical of cash-strapped loan and grant programs. The result is that more sites and tougher sites can be redeveloped.
2. Greater use of loans and guarantees/less use of grants - State funds can be mostly (or even exclusively) loans and guarantees rather than grants. Once a loan program is capitalized it will revolve and self-generate.
3. Greater efficiency in use of limited funds – The state-supported TIF framework has automatic controls because localities are going to scrutinize a deal that involves foregoing taxes for many years. Lacking the TIF element, state loan and

grant programs may encourage inefficiencies because local advocates will try to maximize state investment.

4. More proactive action by local government - The availability of state TIF-linked loan funds under favorable terms allows local governments to proactively acquire, cleanup, and redevelop mothballed and other difficult sites that have failed to attract private investment.

Brownfields Income Tax Credits

Structuring a Brownfields Tax Credit

NEMW would recommend the following in structuring an income tax credit:

- Prefer a broad definition of cleanup costs, including any remedial action required by the State (including a site cap), and asbestos and lead paint abatement in buildings or as part of demolition;
- Eligibility should depend on being in a state VCP;
- Prefer the credit can be transferable/assignable (some developers may not have sufficient tax liability to take advantage of the credit);
- Corollary to transferability: non-profits should be eligible;
- Allow for multi-phased projects, i.e. the credit should be available after the completion of each phase;
- Varying the amount of the credit allows the state to reinforce other objectives. We have seen tax credit programs that have either eligibility requirements or variable credit amounts according to the following site/project characteristics:
 - Job creation
 - Affordable housing
 - Sustainable development/green buildings
 - Targeted investments for distressed areas
 - Unrestricted cleanups
 - Small sites
 - Location in an existing developed area or planned growth area