

**Batavia Development Corporation
Batavia DRI Building Improvement Fund**

Program Guidelines for Applicants

Batavia is “All In” to reshape its urban core by embracing and celebrating its rich entrepreneurial history, fostering cultural appreciation and creating vibrant places for all to enjoy. In alignment with the Batavia Downtown Revitalization Initiative (DRI) Investment Strategy the city will seek to foster more arts, culture & entertainment, healthy living & wellness, and prosperity for all.

A \$600,000 Building Improvement Fund has been established to provide grant funding for applicants to implement interior and exterior building improvements in Batavia’s Business Improvement District (BID) for commercial and mixed-use structures. Filling vacant and underutilized structure has been a common goal across many of Batavia’s planning documents including the Brownfield Opportunity Area (2015), The City’s Comprehensive Plan (2016) and the Downtown Revitalization Initiative (DRI) Investment Strategy (2018).

The fund will mimic the goals, process and requirements of the NYS Main Street Program that includes providing funds for administration of the program by the Batavia Development Corporation (BDC) and also providing funds for soft costs including architectural and environmental costs. The fund is available to any building owner within the Batavia Business Improvement District (BID)/ DRI boundary.

The BDC may award between \$10,000 (minimum) up to \$200,000 (maximum) in DRI grant funds, per building, not to exceed 60% of the total building renovation project cost. The funding is on a building-by-building basis and in-kind match is not eligible. Costs incurred prior to the effective date of the grant agreement are not eligible for reimbursement and not eligible as a match.

Applicant Eligibility

For profit and not-for-profit organizations and individuals are eligible to apply after meeting the following conditions:

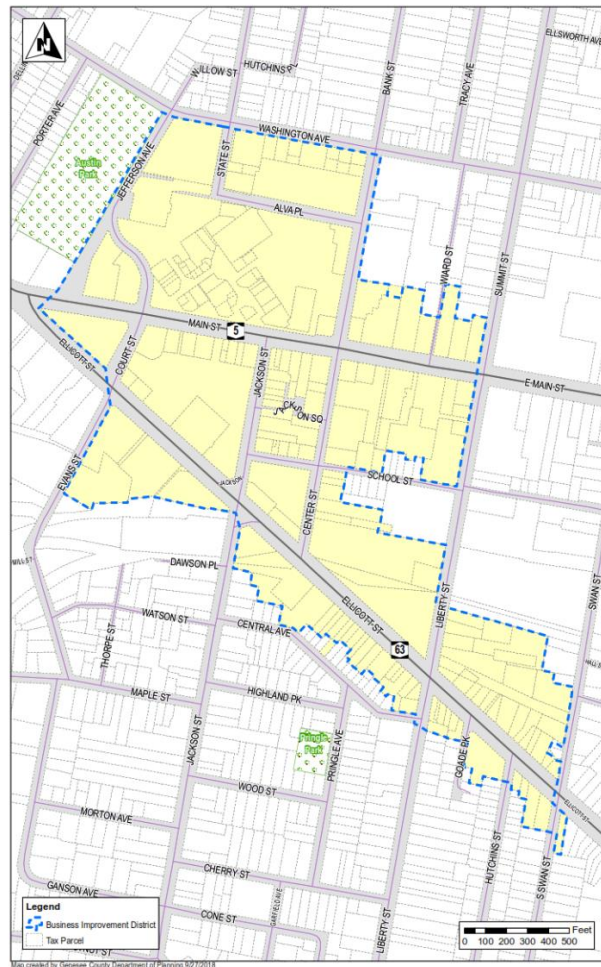
1. Property must be within the designated target area of the BID/ DRI boundary.
2. Properties must be commercial or mixed-use (commercial & residential).
3. The applicant must be current on all municipal taxes including property, water and sewer and any other obligations to the municipalities such as loan payments.
4. Properties that are already receiving DRI funding are not eligible to apply.
5. The applicant will obtain a City of Batavia building permit prior to construction.
6. The applicant will have the ability to finance the entire project and submit for reimbursement when the project is complete.
7. No costs can be claimed against the Batavia DRI- Building Improvement Fund, in advance of official project grant approval from the BDC board and Housing Trust Fund Corporation (HTFC).

Eligible Activities

Interior and exterior building renovations- including but not limited to:

1. Facades
2. Window/door repair and replacement
3. Painting
4. Masonry repair
5. Awnings
6. Building signs
7. Exterior lighting
8. Storefront upgrades
9. Roofs
10. Interior upgrades (heating, plumbing, electrical, walls, floors)
11. Soft costs including architectural and environmental costs

Boundary Map



Program Parameters for Applicants

Project Scoring

The BDC Board will determine the impact that the project will have on the target area and specifically address the following:

1. **Readiness-** proposals should provide proof of readiness such as proof of ownership or lease agreement, documentation that 100% of the financing for the project is in place. P&L statements and lease-up documents can be provided at time of application to strengthen the application (up to 20 points).
2. **City Priorities-** projects that advance the priorities of the Batavia DRI Investment Strategy (arts, culture & entertainment, healthy living & wellness, and prosperity for all) and projects that applied for DRI funds but were eliminated as a “Priority Project” are eligible for points in this category (up to 20 points).
3. **Visual Impact-** projects that are visually prominent downtown, have historic value, are in danger of being lost, in-part or totally to disrepair and damage (up to 20 points).
4. **Encourage Downtown Living-** projects that include renovation of upper floor residential units (up to 20 points).

5. **Economic Impact-** projects leveraging grant funds with private investment that with the assistance of grant funds, will reduce blight, contribute to the economic recovery of the target area, or realize a stabilization or expansion of downtown tax base, businesses and/or jobs (up to 20 points).

Ineligible Activities

Ineligible uses of funds include: acquisition costs; new construction (including in-fill buildings); improvements to structures owned by religious organizations; or improvements to municipally owned and municipally operated buildings; furnishings, appliances, electronics, tools, disposable supplies, business equipment, and non-permanent fixtures.

Funds may not be used for site work or ancillary activities on a property including but not limited to: septic systems laterals, grading, parking lots, sidewalks, patios, decks, garages, sheds, landscaping, fences, free standing signs, general maintenance or repairs. Other ineligible activities include demolition of buildings, refinancing debt, purchase of security system equipment, and payment of sales tax.

Soft Costs- eligible soft costs include architecture, engineering, and environmental testing expenses. Soft costs require matching funds, and in-kind match is not eligible. Soft costs incurred for work on buildings that eventually prove infeasible and do not receive other investments will not be reimbursed with DRI funds. Therefore, reimbursements for soft costs may not be requested as part of a partial payment prior to project completion.

Proof of Available Financing- proof of available financing through cash in bank (balance sheet), secured loan commitments, and project lines of credit is required.

Regulatory Requirements and Repayment Provisions- All assistance is in the form of a reimbursable grant with a five (5)-year compliance period. Property owners will be required to execute a Declaration document committing to this compliance period. Should the property owner sell the property within the five (5)-year timeframe, they will be responsible for repaying a portion of the grant funding received. Repayments will be retained by the BDC and used for eligible activities as presented in this administrative plan. Required repayment of DRI funds will be calculated in accordance with the following schedule:

Months 0-12:	100% repayment due.
Months 13-24:	80% repayment due.
Months 25-36:	60% repayment due.
Months 37-48:	40% repayment due.
Months 49-60:	20% repayment due.
Months 60 and beyond:	0% repayment due

Grants may be taxable under the Federal Tax Cut & Jobs Act of 2018. Project owners should consult with a business tax professional.

Payment Process

Project reimbursements are made when the project is complete. The Batavia DRI- Building Improvement Fund operates fully as a reimbursement grant program and the owner is responsible for paying for all agreed upon repairs. Payment of grant funds will be made only upon satisfactory completion of building projects and payment of renovation expenses.

1. No reimbursement shall be paid to the owner until periodic inspections of the work has been completed by the BDC, its representative(s) or agent(s).
2. All completed work shall comply with all applicable building codes and standards.
3. To substantiate work costs, Owners must provide the following:
 - a. written contracts
 - b. bank documents
 - c. copies of invoices for materials and labor
 - d. cancelled checks
 - e. lien releases
 - f. and any other documents deemed reasonably necessary by the BDC or required by HTFC to maintain effective internal controls.
4. Cash payments/cash receipts are not permitted and will not be reimbursed.

5. The payment of any amount(s) due and payable by the HTFC through the BDC to the project owner, as a reimbursement pursuant to this Grant Agreement for work completed shall be payable within sixty (60) calendar days after all work is satisfactorily completed and sufficient supporting documentation is provided to the BDC and HTFC.
6. Sales tax should not be included on the invoice as the state is exempt from sales tax.

Project Review & Selection Process and Criteria

The BDC will use the following project selection criteria and project review and selection process. This process will be used consistently throughout the term of the Batavia DRI- Building Improvement Fund grant program.

Project Application

The BDC will prepare an application (hard copy and online) with instructions. The application materials outline the program requirements and selection priorities. The application requests all information necessary to fully review the project for eligibility. Requirements include:

1. Completed Application
2. Copy of Deed for the property
3. Proof of financing
4. Conflict of Interest Statement

Project Review Committee

The Project Review Committee will implement the project selection process and generate funding decisions. The planned members include the members of the BDC Board of Directors.

Project Review/ Selection Process

The application for the Batavia DRI- Building Improvement Fund will include a “initial review date” when the committee will review all of the applications received to date. The BDC will continue to accept applications as long as funds are available.

The BDC’s Director of Economic Development will collect applications and facilitate meetings for the review committee. The review committee will be provided an opportunity to review the project applications and to meet with the project owner.

The review committee will discuss each project as a whole, and will score each project individually. The results will be tabulated by the Director of Economic Development of the BDC. The tabulated results will be shared with the project review committee and the projects will be ranked. The review committee will discuss the projects, and make a recommendation selecting which projects will move forward for funding, and the amount of grant funds they will receive. The project selection committee has the authority to approve the projects as presented, modify, disapprove, or approve the project with special conditions.

A formal project background resolution describing the scope of work and project costs will be prepared by the BDC Director of Economic Development and sent to the BDC Board for approval at their next public meeting.

Project Selection and Review Criteria

Projects that are ready, advance the priorities of the Batavia DRI Investment Strategy, are visually prominent downtown, include renovations of upper floor residential units, and expand the economic base of the City will be given priority.

Notification of Disposition

The BDC will advise applicants on the disposition of an application within 30 business days. Once a project has been formally selected and approved by the BDC for grant funding, a staff member or agent of the BDC will contact the applicant to begin to develop a “formal” scope of work for the project.

Commitment Fee

The applicant will provide the BDC with a specific commitment fee following approval of grant funds along with a signed commitment letter. The commitment fee is non-refundable. The commitment fee will be used by the BDC to pay

for work such as environmental testing, developing the scope of work, and final inspection. Commitment fees will vary depending on the size and type of project. The paid commitment fee will be counted toward the required match for the project if renovation activities advance.

Design Standards

A design standards guide is currently being updated from 2012 and will be issued in 2019 for projects to reference.

Housing Trust Fund Corporation Approval

Projects approved locally will be submitted to Housing Trust Fund Corporation (HTFC) for review and approval prior to notifying property or business owner of formal funding approval. The submission to HTFC will include:

1. Property location information
2. Business information
3. Project scope of work
4. Project cost estimates
5. Award amount
6. Total project cost
7. Proposed payment structure
8. Projected outcomes, e.g. units assisted, jobs created/retained
9. Environmental Compliance Checklist and supporting documentation

Contracting Procedures

The BDC will enter into a contract with the project owner to provide the program financial assistance. The contract will outline the roles and responsibilities for both the BDC and the participating property or business owner. At a minimum, the contract will specify:

1. Agreed upon scope of work;
2. Projected amount of financial assistance awarded;
3. Estimated project timeline;
4. Regulatory term or repayment provisions;
5. Requirement to sign a photo release form permitting the BDC and HTFC to use photographs of the assisted business or property;
6. Requirement to engage a contractor and begin activities within 30 days of formal BDC approval;
7. Payments structure, timing;
8. BDC has the right to inspect work at any time;
9. BDC may terminate the award and cancel the contract should the work or purchases be inconsistent with the program rules outlined, agreed upon scope of work or project design, stated timeline or if insurance is not maintained by the participating contractor.

Project Development

Environmental Review

Prior to the commitment or expenditure of program funds, the environmental effects of each activity will be assessed in accordance with the State Environmental Quality Review Act (SEQR). The BDC will submit all required environmental review paperwork according to the requirements outlined in the HTFC Environmental Compliance Handbook.

Work Write-up Scope of Work

Once a project application has been formally selected for DRI Grant program assistance, the BDC will meet with the property owner to develop the formal project scope of work and explain program requirements related to design, environmental hazards, energy efficiency. A formal written scope of work or description of the use of funds is required. The scope of work for a participating renovation project must address:

1. Immediate health and safety concerns;
2. The correction of existing code violations;
3. Environmental hazards;
4. Installation of energy conservation measures;
5. Accessibility for persons with disabilities;
6. Consistency with any other local program design guidelines; and
7. Preservation of historical elements of the building.

The BDC and their consultant are responsible for coordinating renovation work write-ups with local code officials, the State Historic Preservation Office, and other regulators. If needed, additional experts may be consulted. Both the BDC and the property owner must sign-off on the formal scope of work.

The Batavia Development Corporation will meet with the property owner at his/her building to review the scope of work proposed by the owner in their application. The initial scope of work may be amended by mutual agreement and to include work items that resolve any health, safety or code issues. Pictures will be taken of those areas proposed for building improvements. The pictures will be used to document the pre-construction condition of the property and to describe proposed improvements to the State Historic Preservation Office.

Prior to preparing the final scope of work, an environmental review of the proposed improvements will be conducted. If the proposed improvements include residential improvements, then a lead-based paint test and radon test by certified inspectors will be performed if necessary based on the scope of work. If lead or radon is found, a mitigation or remediation plan will be included in the scope of work. In addition, New York State Department of Labor procedures to contain any asbestos materials disturbed as part of the proposed project will be incorporated into the scope of work.

As part of the environmental review the scope of work and pictures of the project will be sent to the State Historic Preservation Office for review and approval. Review and approval of the project's consistency with local planning, zoning, design and SEQR regulations will also be required. A final scope of work and cost estimates will be prepared by the BDC prior to requesting bids from contractors. The applicant will agree to or sign off on the final scope of work.

Contractor Selection

The BDC will establish a list of contractors able to perform work in compliance with applicable standards. The BDC may choose to develop this list through a formal Request for Qualifications (RFQ) process to provide contractors and professional service providers an equal opportunity for consideration. All contractors must supply references and proof of proper insurance. Additional contractors can be added to the list at any time, however, references and proof of proper insurance must be supplied to the BDC.

Procurement & Bidding

The Batavia DRI- Building Improvement Fund and the HTFC requires that at least two bids are solicited and received for each project. The final scope of work, agreed upon by the project owner and the BDC will be sent out to multiple contractors, including NYS Certified Minority and Women Owned Business Enterprises. Contractors will be given an adequate time to prepare and submit bids.

1. The BDC will assist project owners to complete a procurement process, for all activities to be reimbursed with DRI funds. A minimum of two bids or proposals must be obtained and reviewed for all project costs, including but not limited to purchases, services and renovation, administration or professional service activities. This process is required to establish the reasonableness of project costs.
2. The procurement process will be free of collusion or intimidation, and the BDC on behalf of the project owner, will exercise appropriate oversight over the entire process to ensure that it is fair, efficient and free of actual and perceived conflicts of interest.
3. A clear, written, scope of work for the project, as outlined in Work Write-up Scope of Work section, will be the basis for the bids or proposals. All bidders must have equal access to relevant information, including information on the property itself.
4. The bids or proposals for all activities must be submitted directly to the BDC on behalf of the project owners. The BDC will work with project owners to determine the acceptability of the bids proposed cost.
5. The BDC will work with the project owner to select the lowest responsible bidder, If the property owner chooses an alternate bidder, other than the lowest bidder, re-imburement will be based on the amount of the lowest bid.
6. The BDC will document the bid solicitation, review and selection process and save such documentation in its project files.

EEO & MWBE Requirements

The BDC is required to comply with Articles 15-A and 17-B of the New York State Executive Law. These requirements include equal employment opportunities for minority group members and women ("EEO"), and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs") and Service-Disabled Veteran-Owned Businesses ("SDVOBs"). The BDC's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part

of these requirements. Please visit NYS Empire State Development's Division of Minority & Women Business Development website for a directory of certified Minority and Women-Owned Businesses: www.esd.ny.gov/MWBE.html

Construction Management/Quality Control

Construction Monitoring

The BDC retains the right to inspect or audit work in progress at any point. The BDC must perform periodic inspections of renovation activities to monitor adherence with program rules, environmental hazard compliance, and general project progress. These visits must be documented in BDC project files.

Final Inspection

A final inspection or review of project activities by the BDC is required for each participating project. A final report or reconciliation must be submitted to HTFC for formally document completion of project activities.

Program Compliance

All assistance is in the form of a reimbursable grant with a five (5) year compliance period. Should the property owner sell the building within five the (5) year timeframe, they will be responsible for repaying a portion of the grant funding received. Reimbursement is subject to execution of a declaration form at the conclusion of the project. The declaration form will be filled with the Genesee County Clerk.

Financial Management

The BDC's Chief Financial Officer will be responsible for all financial transactions under this contract. The BDC must have a written policy on internal controls, and use this policy to determine the process for review and approval of requests for disbursement of funds from HTFC. An authorized signature form must be completed to designate the representative(s) authorized to sign disbursement requests and must reflect the BDC's written policy on internal controls.

Conditions

Housing Trust Fund Corporation reserves the right to change or disallow aspects of the application and may make such changes conditions of its commitment to provide funding to a project or program. The BDC will address any additional requirements or conditions of approval.

Covenants of the Recipient

The BDC will comply with all applicable statues, guidelines, regulations, policies and procedures of the program. Any defect or departure from the approved Administrative Plan must be requested and approved in writing. The BDC must refer to the Grant Agreement and associated schedule(s) for a summary of the awarded program activities, budget and projected accomplishments.

Conflict of Interest

Conflict of Interest

1. Perceived or actual conflicts of interest may arise when certain individuals have access to inside information regarding the award of a contract or property assistance. A contractor cannot receive DRI funds for work done on property that he or she owns, or a property that is owned by an immediate family member.
 - a. An immediate family member includes a spouse, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law.
2. A property owned by the following individual will not be eligible for grant funding.
 - a. City of Batavia elected official and family member.
 - b. City of Batavia staff member and family member.
 - c. BDC board member and family member.
 - d. BDC staff member and family member.
3. Prior to commencing a project where there is a possible conflict of interest, the BDC must review the project with HTFC staff.