

ACT 381 WORK PLAN INSTRUCTIONS
July 2018

**TO CONDUCT ELIGIBLE
DEQ ENVIRONMENTAL AND/OR
MSF NON-ENVIRONMENTAL
ACTIVITIES**

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ACT 381 WORK PLAN INSTRUCTIONS

An Act 381 Work Plan must be a **stand-alone** document that includes all necessary information to demonstrate property eligibility and activity eligibility. Following is the minimum information necessary for submission of an Act 381 Work Plan. Please include any other information, reports, maps, tables, etc. that you feel are pertinent for a complete review and consideration of your Work Plan.

Act 381 Guidance for Brownfield Plans, Work Plans and Combined Plans is available online at <http://www.michiganbusiness.org/community/development-assistance/#brownfield>

1.0 INTRODUCTION

1.1 Proposed Redevelopment and Future Use for Each Eligible Property

Describe the proposed redevelopment project including the number, types, and square feet of the structures, for what purposes they will be used, the number of units (if residential condos/apartments), the square footage of revitalized publicly owned/maintained space (please approximate square footage if improvements are measured in linear feet), the anticipated number of new full-time equivalent (FTE) jobs created (with single average FTE wage) not including temporary construction jobs, the amount of private investment, the total cost of the project, the anticipated eligible activities completion date and anticipated redevelopment project completion date. Indicate whether the project is located in a qualified local governmental unit (QLGU).

1.2 Eligible Property Information

1.2.1 **Property Eligibility – Location/Legal Description**– Indicate how each property qualifies as a facility, historic resource, functionally obsolete, blighted, or tax reverted property owned or under the control of a Land Bank Fast Track Authority. Indicate whether the eligible property includes adjacent or contiguous parcels. Properties adjacent or contiguous to the eligible property but located outside of the Brownfield Plan’s eligible property boundary are not eligible properties. If there are multiple parcels involved, it is helpful to summarize them in table format with an address, parcel number, and how the individual parcel qualified as eligible.

Include street address, city or township, county, parcel number(s) and legal descriptions for each eligible property, (including adjacent or contiguous properties that are part of the eligible property) and parcel size or total acreage. Provide a Scaled Property Location Map and an Eligible Property Map as Figures 1 and 2 in the Work Plan Exhibits. Adjacent or contiguous parcels should be identified as such on the maps. The Eligible Property Map provided should match that presented in the adopted Brownfield Plan.

1.2.2 **Current Ownership** – Name, address, and contact person for all current owners. If property ownership has changed within the past six (6) months, provide the name of the previous owner(s).

1.2.3 **Proposed Future Ownership** – Name, address, and contact person for all known future owners.

1.2.4 **Delinquent Taxes, Interest, and Penalties** – Total of delinquent taxes including penalties and interest for each eligible property. If there are taxes owed, explain why they are owed and how the issue will be resolved.

- 1.2.5 **Existing and Proposed Future Zoning** – Identify existing and proposed future zoning for each eligible property. Indicate if the zoning will remain unchanged.

1.3 Historical Use and Previous Ownership of Each Eligible Property

- 1.3.1 **Historical Use** - Summarize the historical use of each eligible property dating back as far as information is available. Include the types of residential, public, commercial, and industrial uses and the corresponding dates for each use.
- 1.3.2 **Previous Ownership** - Provide the names of previous owners and operators back to at least 1994. Provide information about the types of equipment, machinery, storage tanks, etc. that were operated on each property and known or possible hazardous substance use, as well as persons and/or entities who may be liable for the contamination.

1.4 Current Use of Each Eligible Property

Summarize the type(s) of residential, public, commercial, and industrial uses that are currently operating on each eligible property. Indicate which uses will continue operating after redevelopment. Also, indicate whether each property is vacant.

1.5 Site Conditions and Known Environmental Contamination Summary

If applicable, provide what is known about environmental contamination for each eligible property qualifying as a facility as defined in [324.20201\(s\)](#) or a site or property, as those terms are defined in [324.21303\(d\)](#) and [324.21303\(m\)](#). List types, dates and results summaries of previous environmental studies including Phase I and II Environmental Site Assessments (ESAs), Baseline Environmental Assessments (BEA), remedial investigations, etc. Indicate if a BEA has been conducted/completed for the eligible property by any party associated with the redevelopment. Indicate what conditions make the property a facility, or a site or property including the types of contaminants and concentrations found above residential cleanup criteria and the associated laboratory analytical data that demonstrate the property is a facility, or a site or property. Include a site map showing the lateral and vertical extent of known contamination with soil boring and monitoring well locations and concentrations identified. Note: Do not submit environmental reports with the Work Plan. The DEQ will request further documentation if needed.

This information is required whether or not school taxes will be used for response activities. The Michigan Strategic Fund (MSF) requires facilities or sites or properties to be investigated to the extent necessary for a reasonable identification of eligible activities and costs necessary to address the contamination. A description of existing conditions and anticipated environmental activities must be submitted. MSF approval of non-environmental activities may be conditioned on certain requirements intended to protect the public health, safety, and welfare and the environment consistent with applicable state and/or federal laws.

1.6 Functionally Obsolete, Blighted and/or Historic Conditions

If applicable, describe why the property is blighted and/or functionally obsolete as defined in Sections 2(e) and 2(s), respectively, of Act 381. A property qualifying as functionally obsolete requires an Affidavit, attached as an Exhibit, signed by a Level 3 or Level 4 Assessor, which states in the Assessor's expert opinion the property is functionally obsolete and the underlying basis for that opinion. A property qualifying as blighted requires a

detailed description of the property conditions and a formal declaration by the local unit of government designating the area blighted. If a property is qualifying as historic (MCL 125.2090a), provide documentation that it is located within a local historic district or listed on the State or National Register of Historic Places.

1.7 Information Required by Section 15(15) of the Statute

Work Plans submitted for MSF consideration require responses to the following questions:

- 1.7.1 How are the individual activities included in the Work Plan sufficient to complete the eligible activity?
- 1.7.2 How is each individual activity included in the Work Plan required to complete the eligible activity?
- 1.7.3 How were the costs for each individual activity determined to be reasonable?
- 1.7.4 What is the overall public benefit?
- 1.7.5 To what extent will vacant buildings be reused and redevelopment of blighted property occur?
- 1.7.6 How many full-time equivalent jobs will be created by the project? Describe the types and sectors of jobs that will be created. Include single average FTE wage. Do not include temporary or construction jobs.
- 1.7.7 Is the eligible property in a high unemployment area?
- 1.7.8 What is the level and extent of contamination alleviated by or in connection with the eligible activities?
- 1.7.9 What is the level (amount) of private sector contribution (investment) to the project?
- 1.7.10 If the developer or projected occupant of the new development is moving from another location in this state, will the move create a Brownfield?
- 1.7.11 Is the project financially and economically sound? Describe and demonstrate with a project pro forma, financial statements or other acceptable documentation.
- 1.7.12 What other state and/or local incentives (including amounts) are anticipated to directly or indirectly benefit this project?
- 1.7.13 Is there any additional information you want MSF to consider while reviewing this Work Plan?

2.0 SCOPE OF WORK AND COSTS

All proposed activities and costs are for work to be conducted and must be consistent with the approved Brownfield Plan. Costs should be itemized within each proposed eligible activity type (e.g., BEA, due care, demolition, infrastructure improvements, etc.). Use of captured school taxes for reimbursement of interest costs associated with financing of eligible activities differs by agency. The DEQ and MSF allow a combined total of up to \$30,000 maximum per project for preparation of Brownfield and Work Plans, which should be split between the agencies. The DEQ and MSF also allow a combined total of up to \$30,000 maximum per project for the implementation of Brownfield and Work Plans, which should be split between the agencies.

2.1 DEQ Eligible Activities

Proposed activities should be placed into one of the following categories. Provide as much detail as possible, including costs, for each proposed activity. For all proposed environmental sampling activities, include the types of samples to be collected (soil, groundwater, waste, sediments, surface water, etc.), method of sample collection (surface soil, hand auger, drill rig, geoprobe, temporary well, monitor well, etc.), number of samples,

and analytes for each type of sample. A Proposed Sampling Location Map is required as an Exhibit.

2.1.1 Department Specific Activities

Site Assessment and Baseline Environmental Assessment (BEA) – activities may include:

- All Appropriate Inquiry compliant Phase I Environmental Assessment and Phase II Environmental Assessments.
- Soil and Groundwater Sampling and Analysis.
- Data Interpretation and reporting.
- Development of engineering controls or isolation zones.

Pre-Demo, Hazardous Material, Lead, Mold, and Asbestos Surveys – activities may include:

- Inspections.
- Sampling and analysis.
- Data interpretation and reporting.

Due Care – activities to meet [324.20107a](#) and [324.21304c](#) due care obligations may include:

- Investigation (sampling, analysis, interpretation, reporting) to define contamination sufficient to conduct an adequate pathway evaluation and determine necessary response actions.
- Assessment of complete pathways, evaluating potential unacceptable exposures in consideration of intended use(s) of the property and identification of all notice requirements, etc. as necessary to comply with both [324.20107a](#) and [324.21304c](#).
- Development of a plan to conduct response activities to sufficiently demonstrate compliance with [324.20107a](#) and [324.21304c](#) obligations for a prospective or current owner, or operator.
- Treatment or removal of contaminated soil or groundwater as a response activity to prevent or mitigate an unacceptable exposure or eliminate the potential for exacerbation.
- Construction of appropriate barriers to prevent or mitigate unacceptable exposures.

Response Activities – response activities beyond due care may include:

- Evaluation including investigation and feasibility study.
- Interim response activity.
- Remedial/corrective action.
- Demolition that is a response activity (e.g., demolition is necessary to address the contamination; the structure has been condemned, formally declared dangerous, etc.). Describe why demolition is necessary for environmental and/or public health, safety, or welfare reasons and if so, document that the local unit of government has formally declared the building a danger to the community as an attachment. Include the size, type, and number of structures. Include the deconstruction/demolition procedure and recycling/disposal practices. Bids should be obtained for all demolition activities.

- Lead abatement. Describe why it is necessary for environmental and/or public health, safety, or welfare reasons. Describe the type of lead abatement activities to be performed including procedures and disposal practices.
- Asbestos abatement. Describe why it is necessary for environmental and/or public health, safety, or welfare reasons. Describe the type of asbestos abatement activities to be performed including procedures and disposal practices.
- Mold abatement. Describe why it is necessary for environmental and/or public health, safety, or welfare reasons. Describe the type of mold abatement activities to be performed including procedures and disposal practices.
- Response activities that are more protective of the public health, safety, and welfare and the environment than required for due care. Describe the proposed activities and how they provide public health or environmental benefits and address the following:
 - 1) The proposed new land use and the reliability of land use restrictions to prevent exposure to the contamination.
 - 2) The activities and costs minimally necessary to achieve due care compliance and the incremental cost of the proposed additional response activities that are more protective.
 - 3) The long-term obligations (deed restrictions, monitoring, operation and maintenance, etc.) associated with leaving contamination in place and the value of reducing or eliminating these obligations.
- Other actions necessary to protect the public health, safety, welfare, environment, or natural resources.

Environmental Insurance – The reasonable cost of liability insurance for environmental contamination and cleanup that is not otherwise required by state or federal law (e.g. storage tank insurance). Due to Michigan’s causation liability standard, describe why the insurance is needed, include the type of coverage that will be provided (types of risks), the term of the policy that will be purchased for the funding requested, and any other relevant information that will assist in determining if the is cost is reasonable.

- 2.1.2 **Interest** – According to 125.2663b(12)(b) an authority may capture taxes for the payment of interest. The interest rate must be provided and should conform to the MEDC’s Interest Guidance. List the costs subject to payment or reimbursement to any person or entity seeking that payment or reimbursement.
- 2.1.3 **Brownfield Plan and/or Work Plan Preparation** –This includes the reasonable cost of developing and preparing the Brownfield Plan and/or Work Plan.
- 2.1.4 **Brownfield Plan and/or Work Plan Implementation** – This includes the reasonable cost of implementing the Brownfield Plan and/or Work Plan.

2.2 MSF Eligible Activities

Proposed activities should be placed into one of the following categories. For each proposed activity, provide as much detail as possible, including costs and existing conditions which make the activity necessary. NOTE: Demolition, Lead and Asbestos Abatement and Brownfield/Work Plan Preparation Costs are allowed statewide. The remaining activities are available only to Qualified Local Governmental Units (QLGU), also known as Core Communities, a list of which is available online at:

<http://www.michiganbusiness.org/community/development-assistance/#section1-1>

Act 381 Guidance for Brownfield Plans, Work Plans and Combined Plans is available online at: <http://www.michiganbusiness.org/community/development-assistance/#brownfield>

- 2.2.1 **Demolition** – This MSF eligible activity is available on eligible properties *statewide*. Potential MSF eligible demolition activities include building demolition and site demolition *that is not a response activity*, including interior and partial/whole building. Describe the size, type, location, and number of buildings, structures or improvements to be demolished, the costs, and if applicable recycling/disposal practices.
- 2.2.2 **Lead Abatement** – This MSF eligible activity is available on eligible properties *statewide*. For lead abatement, include the location and number of buildings, structures, or improvements to be abated. Include the types and costs of activities to be performed and the procedure and disposal practices to be used. Assessing/surveying for lead-containing materials and sampling/reporting are allowable activities to successfully complete the eligible lead abatement activities.
- 2.2.3 **Asbestos Abatement** – This MSF eligible activity is available on eligible properties *statewide*. For asbestos abatement, include the location, and number of buildings, structures, or improvements to be abated. Include the types and costs of activities to be performed and the procedure and disposal practices to be used. Assessing/surveying for asbestos-containing materials and sampling/reporting are allowable activities to successfully complete the eligible asbestos abatement activities.
- 2.2.4 **Mold Abatement** – This MSF eligible activity is available on eligible properties *statewide*. For mold abatement, include the location, and number of buildings, structures, or improvements to be abated. Include the types and costs of activities to be performed and the procedure and disposal practices to be used. Assessing/surveying for mold-containing materials and sampling/reporting are allowable activities to successfully complete the eligible mold abatement activities.
- 2.2.5 **Infrastructure Improvements** – This MSF eligible activity is only available on eligible properties within a *QLGU*. Eligible properties include those that are a historic resource, facility, blighted or functionally obsolete. Provide map(s) showing the location of the infrastructure improvements relative to the project. In the Eligible Activities Cost and Schedule, list the improvements, per unit cost, size and scale in terms of linear feet, square footage or other appropriate measure(s). Infrastructure improvements shall be publicly owned and maintained, support the

project, and also serve others/public, except in the case of urban storm water management systems and parking decks, which may be located on private property. Infrastructure improvements can also extend into private property so long as there is a dedicated easement or the area of improvements is deeded to the governing body.

- 2.2.6 **Site Preparation** – This MSF eligible activity is only available on eligible properties in a *QLGU*. Eligible properties include those that are a historic resource, facility, blighted, or functionally obsolete. Under Act 381, as amended, the Site Preparation activity is defined as: “site preparation *that is not response activity* under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101”. Note that if soils are to be removed from the site that exhibit contamination above residential criteria the costs may be covered by DEQ. Provide map(s) showing the site preparation activity location(s). In the Eligible Activities Cost and Schedule, list each of the proposed site preparation activities, their costs, size and scale in terms of linear feet, square footage or other appropriate measure(s).
- 2.2.7 **Interest** – This MSF eligible activity is only available on eligible properties within a *QLGU*. Upon request, the MSF Board will consider interest in accordance with the current MSF Brownfield Program Guidelines. If the costs to conduct the eligible activities will be financed and use of school tax capture is being sought for reimbursement of interest expense, include these costs as a separate line item in the estimated costs. The interest rate must be provided and should conform to the MEDC’s Interest Guidance, found in the MSF Eligible Activity section of the [Act 381 Guidance](#).
- 2.2.8 **Assistance to a Land Bank Fast Track Authority** – Identify activities and costs necessary to clear or quiet title to, or sell or otherwise convey, property owned by a Land Bank Fast Track Authority or the acquisition of property by the land bank if the acquisition of the property is for economic development purposes (including reasonable costs associated with the acquisition).
- 2.2.9 **Relocation of Public Buildings or Operations** – This MSF eligible activity is only available on eligible properties with a *QLGU*. Public buildings or operations can be moved for economic development purposes. Prior approval from MSF is required. The *QLGU* must describe how the relocation will benefit economic development and provide detailed plans and maps showing the current usage and proposed changes and costs for the eligible properties.
- 2.2.10 **Brownfield Plan and/or Work Plan Preparation** – This MSF eligible activity is available on eligible properties *statewide*. The reasonable cost of developing and preparing the Brownfield Plan and/or Work Plan.
- 2.2.11 **Brownfield Plan and/or Work Plan Implementation** – This MSF eligible activity is available on eligible properties *statewide*. The reasonable cost of Implementing the Brownfield Plan and/or Work Plan.

2.3 Local Only Eligible Activities

Outline any costs related to eligible activities that will be reimbursed with local-only taxes.

2.4 Eligible Activities Costs and Schedule

In the table(s) below, reflect the aforementioned proposed eligible activity categories and their sub-total costs, then itemize the individual activities within each category and their itemized costs.

DEQ and MSF allow up to a 15% contingency. The DEQ contingency is allowable only for department specific activities that have not yet been conducted. The MSF contingency is allowable only for demolition, lead and asbestos activities, infrastructure improvements and site preparation.

According to 125.2663b(7)(b)(i) Authorities may capture up to \$30,000 of taxes levied for school operating purposes for preparation of Brownfield Plans and/or Act 381 Work Plans per project, which should be split between the agencies. According to 125.2663b(7)(b)(ii) Authorities may capture up to \$30,000 of taxes levied for school operating purposes for the implementation of Brownfield Plans and/or Act 381 Work Plans per project, which should be split between the agencies.

Provide an anticipated season and year for completing each of the proposed eligible activities.

The tables on the following pages can be adjusted to meet the specific eligible activities being conducted.

DEQ Eligible Activities Costs and Schedule		
DEQ Eligible Activities	Cost	Completion Season/Year
Department Specific Activities		
<i>Itemize Site Assessment and BEA Activities</i>		
<i>Itemize Pre-Demo, Hazardous Material, Lead, Mold, and Asbestos Surveys</i>		
<i>Itemize Due Care</i>		
<i>Itemize Response Activities</i>		
<i>Itemize Environmental Insurance</i>		
DEQ Eligible Activities Sub-Total		
Contingency (Indicate %)		
Interest (Indicate %)		
Brownfield Plan and/or Work Plan Preparation		
Brownfield Plan and/or Work Plan Implementation		
DEQ Eligible Activities Total Costs		

MSF Eligible Activities Costs and Schedule		
MSF Eligible Activities	Cost	Completion Season/Year
Demolition Sub-Total		
<i>Itemize Demolition Activities</i>		
Lead, Asbestos, Mold Abatement Sub-Total		
<i>Itemize Lead Abatement Activities</i>		
Infrastructure Improvements Sub-Total		
<i>Itemize Infrastructure Improvement Activities</i>		
Site Preparation Sub-Total		
<i>Itemize Site Preparation Activities</i>		
MSF Eligible Activities Sub-Total		
Contingency (Indicate %)		
Interest (Indicate %)		
Brownfield Plan and/or Work Plan Preparation		
Brownfield Plan and/or Work Plan Implementation		

DEQ Eligible Activities Costs and Schedule		
DEQ Eligible Activities	Cost	Completion Season/Year
Department Specific Activities		
<i>Phase I ESA</i>	\$2,100	Summer 2017
<i>Phase II ESA</i>	\$15,000	Summer 2017
<i>BEA</i>	\$3,500	Summer 2017
<i>Hazardous Material Survey</i>	\$4,000	Summer 2017
<i>Lead, Mold, and Asbestos Survey</i>	\$2,600	Summer 2017
<i>Industrial Cleaning</i>	\$35,000	Summer 2017
<i>Gas Vapor Mitigation System</i>	\$90,000	Spring 2018
<i>Groundwater Treatment and Discharge to Storm Sewer</i>	\$11,000	Fall 2017
<i>Transportation and Disposal of Contaminated Soil</i>	\$260,000	Fall 2017
<i>UST Removal</i>	\$13,000	Summer 2017
<i>Dust Control During Construction Activities</i>	\$6,000	Spring 2018
DEQ Eligible Activities Sub-Total	\$442,200	
Contingency (Indicate 15%)	\$62,250	
Interest (Indicate 0%)		
Brownfield Plan and/or Work Plan Preparation	\$25,000	
Brownfield Plan and/or Work Plan Implementation	\$20,000	
DEQ Eligible Activities Total Costs	549,450	

MSF Eligible Activities Costs and Schedule Example		
MSF Eligible Activities	Cost	Completion Season/Year
Demolition Sub-Total	\$80,000	Spring 2015
<i>Building Demolition</i>	\$50,000	
<i>Site Demolition</i>	\$30,000	
Asbestos Abatement Sub-Total	\$12,500	Spring 2015
<i>Asbestos Survey</i>	\$500	
<i>Asbestos & Hazardous Material Abatement</i>	\$12,000	
Infrastructure Improvements Sub-Total	\$120,000	Spring 2017
<i>Landscaping</i>	\$25,000	
<i>Curbs, gutters, sidewalks and approaches replacements</i>	\$75,000	
<i>Engineering design and professional fees for infrastructure</i>	\$20,000	
Site Preparation Sub-Total	\$18,000	Summer 2016
<i>Construction staking</i>	\$2,000	
<i>Grading</i>	\$13,000	
<i>Civil design and engineering for site prep</i>	\$3,000	
MSF Eligible Activities Subtotal	\$230,500	
Contingency (Indicate 15%)	\$34,575	
Interest (Indicate 3.5%)	\$9,277	
Brownfield Plan and/or Work Plan Preparation	\$5,000	Fall 2015
Brownfield Plan and/or Work Plan Implementation	\$5,000	Ongoing
MSF Eligible Activities Total Costs	\$284,352	

EXHIBITS

FIGURES

Figure 1	Scaled Property Location Map – a Google (or similar) map of the surrounding area or general vicinity.
Figure 2	Eligible Property Map(s) – A parcel map or survey clearly depicting property lines and dimensions (include parcel number and address). Preferably an American Land Title Association (ALTA) Survey.
Figure 3	Proposed Sampling Location Map
Figure 4	Known Extent of Vertical and Horizontal Contamination Map
Figure 5	Color Site Photographs – include "before" photographs depicting the current conditions of the eligible property. Digital photographs may be requested by the reviewing agency. Photographs of the property after redevelopment may also be requested.
Figure 6	Infrastructure Improvements Map(s)
Figure 7	Site Preparation Map(s)
Figure 8	Redevelopment Project Renderings(s)
Figure 9	Engineering Site Plan(s) or Site Plan(s) - illustrating the proposed future use and locations of buildings and site improvements.

TABLE

Table 1	<p>TIF Table (Tax Capture/Reimbursement Schedule) - containing DEQ and/or MSF eligible activities, must clearly identify the following information:</p> <ul style="list-style-type: none">• All of the local and state millage rates listed separately in detail.• The methodology for calculating the local-only tax capture portion (local-only eligible activities and administrative/operating costs of the BRA) to ensure the local-only portion has not been included in the shared state-to-local tax capture calculations.• Any other information requested at the discretion of the DEQ.• Any other information requested at the discretion of the MEDC for approval by the MSF.• Any tax abatements, other TIF districts, renaissance zones, etc. that may impact the tax capture.• The TIF Table template is required when State school capture is requested.
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Note: After the MSF Board approves the Work Plan, if there is any change in millage that increases the captured percentage of school operating taxes by more than five percent, the MSF Board must approve the change prior to the collection of any school operating taxes.

ATTACHMENTS

- Attachment A Brownfield Plan and Resolution(s) approved by the governing body.
- Attachment B Development and Reimbursement Agreement – An executed copy of the Agreement between the municipality and property owner or developer (required for MSF projects). The Agreement must include: a) terms and conditions for the acquisition of property associated with the project; b) development objectives; c) performance, reporting and financial responsibilities of the local community; d) performance, reporting and financial responsibilities of the developer and e) defaults and remedies. In addition, the Agreement shall include the identification of all ownership interests; monetary considerations, fees, revenue and cost sharing, charges, other financial arrangements; and other considerations between the parties.
- Attachment C Interlocal or Other Agreements – An executed copy of an Agreement between the BRA and other Authority, if applicable.
- Attachment D Declaration of Dangerous Building from the governing body (required for DEQ demolition projects).
- Attachment E Declaration/Resolution of Blighted Condition from the governing body (required for MSF projects).
- Attachment F Signed Affidavit for Functional Obsolescence from a Level 3 (MAAO) or Level 4 (MMAO) Assessor (required for MSF projects).