



## Indiana Brownfields Program

### Comfort/Site Status Letter Request Submittal Checklist

Please complete this checklist and submit it with your request along with all supporting documentation to ensure your request is complete; an incomplete submittal will delay staff review of your request. Thank you.

Please indicate, as applicable, if the following items are identified and/or included with your request:	Yes	Location in Request (page #)	No	N/A
Type of letter requested				
Names, affiliations, contact information for all project stakeholders				
The basis in statute or applicable enforcement discretion policy for a Comfort Letter request				
Supplemental Information Request Form & all requested attachments				
Reliance letter to use another's Phase I report (for a BFPP CL)				
List and/or map of the parcel(s) comprising the site and the corresponding 18-digit parcel identification number(s)				
A legible copy of the recorded deed(s) or a surveyed legal description(s) for the parcel(s) comprising the site*				
The date of property acquisition (or proposed property transfer/closing date)				
Indication of whether or not a purchase agreement has been finalized				
Description of redevelopment project including a site redevelopment/design plan				
A black & white site map (no aerial photos) depicting property boundaries, parcel(s) & parcel number(s)				
Building size(s), square footage, ceiling height(s), slab thickness, and HVAC air exchange rate(s) (if known VOC contamination & existing building(s) will continue to be used or are planned to be renovated)				
Map(s) depicting utility corridors to/from the parcel(s) comprising the Site (if known VOC contamination, for preferential pathway analysis)				
Timeframes (application deadline) for SBA Loan-financed project				
Paper copy and CD with Phase I report(s) (and/or Phase I Update)				
Paper copy and CD with Phase II report(s)				

If "No", then explain why below:

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*\*Note: if you are a prospective purchaser, and an environmental restrictive covenant is required to be recorded on the deed(s) for the site, your new deed(s) will be utilized at the time of recording.*

**Indiana Brownfields Program****Comfort/Site Status Letter Request Submittal Checklist (*continued*)**

Please provide the following information regarding specific components of the Phase I Environmental Site Assessment report that will facilitate our timely evaluation of your BFPP Comfort Letter request:

Not applicable

<b>Report Topic</b>	<b>Location in Phase I Report (Page #/Section/Appendix)</b>
Interviews of Past and Present Owners and/or Operators	
Recorded Environmental Cleanup Liens/Activity and Use Limitations Search	
Government Records Review/Database Search	
Site Reconnaissance of the Subject Property	
Environmental Professional Statement and Signature	
User Questionnaire	
Vapor Migration Analysis	

Form completed by:

Date completed:

\_\_\_\_\_

Printed

\_\_\_\_\_

Signature

\_\_\_\_\_

Affiliation



## Indiana Brownfields Program Comfort/Site Status Letter Request Supplemental Information

Please include the following information in a **transmittal letter** with your **Comfort and Site Status Letter Request Form** to facilitate the timely review of your request:

1. The basis in statute or enforcement discretion policy for the Comfort Letter request:
  - *the Stakeholder is a government entity exempt from liability under IC 13-25-4-8(e), IC 13-11-2-150(d), or IC 13-11-2-151(b);*
  - *the Stakeholder is a creditor, lender, or fiduciary exempt from liability under IC 13-23-13-14 (IC 13-11-2-150(b)), IC 13-23-13-15, IC 13-24-1-10 (IC 13-11-2-151(d)), IC 13-24-1-11, or IC 13-25-4-8(c);*
  - *the Stakeholder is not the statutory owner of an underground storage tank pursuant to IC 13-11-2-150(a) because the tank was not used after November 8, 1984 and the Stakeholder was not the person who owned the tank immediately before the discontinuation of the tank's use;*
  - *the Stakeholder is exempt from liability or eligible for a defense to liability as a bona fide prospective purchaser (BFPP), contiguous property owner (CPO) or innocent landowner (ILO) pursuant to IC 13-25-4-8(b), IC 13-11-2-150(f), IC 13-11-2-150(g), IC 13-11-2-151(g), or IC 13-11-2-151(h);*
  - *the Stakeholder is a nonprofit corporation exempt from liability under IC 13-25-4-8(h), IC 13-11-2-150(e), or IC 13-11-2-151(f); or,*
  - *the Stakeholder satisfies the conditions of IDEM Nonrule Policy Document W-0047, "Property Containing Contaminated Aquifers" (20 IR 1674, January 30, 1997), or IDEM Nonrule Policy Document W-0038 "Property Containing Contaminated Aquifers/Underground Storage Tanks" (23 IR 2141, April 20, 2000).*
2. Names, affiliations, contact information for all project stakeholders
3. The parcel(s) comprising the site and the corresponding State 18-digit parcel number(s)
4. A legible copy of the recorded deed(s) or a surveyed legal description(s) for the parcel(s) comprising the site
5. The date of property acquisition (or proposed property transfer/closing date)
6. Whether or not a purchase agreement has been finalized
7. A black & white site map (no aerial photos) depicting property boundaries, parcel(s) & parcel number(s)
8. Description of redevelopment project including a site redevelopment/design plan (if available)
9. Building size(s) (square feet), ceiling height(s), slab thickness, and HVAC air exchange rate(s) (if known VOC contamination & existing on-Site building(s) will continue to be used or are planned to be renovated)
10. Map(s) depicting all utility corridors to and from the parcel(s) comprising the Site (if known VOC contamination)
11. Applicable timeframes (application deadline) if this is an SBA Loan financed project
12. Relevant investigation/remediation reports from other IDEM Programs (noting assigned IDEM site # and IDEM Virtual File Cabinet (VFC) Document #s)

**If the basis for a Comfort Letter request is the BFPP liability exemption, please complete the attached checklist (on pages 3 and 4) of additional information required to be submitted with your Comfort Letter request.**



**Indiana Brownfields Program**  
**Comfort/Site Status Letter Request**  
**Supplemental Information (*continued*)**

**The following additional information *may* be requested following Program review of available site investigation data/reports:**

1. Data table(s) with sample results compared to applicable IDEM *Remediation Closure Guide* screening levels (e.g., residential, commercial/industrial, recreational)
2. A black & white map (no aerial photos) with contaminant locations above applicable IDEM screening levels
3. A table with GPS coordinates of sample locations at which contaminants of concern have been detected above applicable IDEM residential screening levels
4. A Site map with survey or GPS coordinates establishing the boundaries of any "Affected Area" to which a land use restriction will apply



## Indiana Brownfields Program BFPP (Bona Fide Prospective Purchaser) Comfort Letter Request Checklist

Date of Phase I report: \_\_\_\_/\_\_\_\_/\_\_\_\_

Entity for which the Phase I report/Phase I Update was prepared (User): \_\_\_\_\_

Which of the following describes the User? (check the applicable box):

- Prospective Purchaser (has not purchased) Proposed date of purchase: \_\_\_\_\_
- Prospective Tenant (has not executed lease) Proposed date of lease execution: \_\_\_\_\_
- Current Owner (seller or already purchased) Date purchased/acquired: \_\_\_\_\_
- Current Tenant (seeking liability protection under existing lease or intending to buy)  
Date lease executed: \_\_\_\_\_

Buying on land contract?  Yes  No Date land contract executed: \_\_\_\_\_

Is the User the stakeholder requesting the Comfort Letter?  Yes  No

Who answered the User-specific questions in the Phase I/Phase I Update? \_\_\_\_\_

- Were the questions answered on behalf of the BFPP seeking comfort?  Yes  No

If the User identified above is not the BFPP, has the BFPP obtained a Phase I Update in its name and/or a reliance letter to utilize the Phase I report (or is the BFPP identified as an eligible user in the reliance section of the report (if yes, on what page \_\_\_)?  Yes  No

- If yes: Date of the Phase I Update or reliance letter obtained for the BFPP? \_\_\_\_/\_\_\_\_/\_\_\_\_
- If yes: Did the BFPP complete a User-questionnaire for itself when obtaining the Phase I Update or reliance letter?  Yes  No

Phase I report completed within 180 days of (prior to) acquisition (clock on 180 days and one-year shelf life of Phase I report begins ticking from the date on which the earliest report information is collected, NOT the date of the report)?<sup>1</sup>  Yes  No

- If no: Has the User/BFPP obtained a Phase I Update?  Yes  No
- If yes: Date of the Phase I Update: \_\_\_\_/\_\_\_\_/\_\_\_\_

	Date Conducted	Expiration Date
(i) interviews with owners, operators, and occupants;	_____	_____
(ii) searches for recorded environmental cleanup liens;	_____	_____
(iii) reviews of federal, tribal, state, and local government records;	_____	_____
(iv) visual inspections of the <i>property</i> and of <i>adjoining properties</i> ; and,	_____	_____
(v) declaration by the environmental professional	_____	_____

**Report Viability Date (based on earliest expiration date from above-listed items):** \_\_\_\_\_

<sup>1</sup> The "continuing viability" component of the ASTM standard requires updates after 180 days from the earliest date of collection of interviews with owners, operators & occupants; environmental lien search; government database search; visual inspections/site reconnaissance; and, the Environmental Professional declaration. In any case, if a different User relies on the report, the new User must satisfy the User Responsibilities.



## Indiana Brownfields Program

### BFPP (Bona Fide Prospective Purchaser)

### Comfort Letter Request Checklist (*continued*)

Do the Phase I User name and the name of the purchasing entity (to be) listed on the deed match exactly?

Yes  No (If no, need to obtain a reliance letter or a Phase I Update and a complete a new User Questionnaire on behalf of the correct entity)

Phase I/Phase I Update completed in accordance with ASTM E1527-13 or 40 CFR Part 312?  Yes  No

Phase I signed by qualified Environmental Professional with the required certification statement?  Yes  No

Is the BFPP “affiliated with” another party who is potentially liable at the site?  Yes  No

1. *Direct or indirect familial relationship?*
2. *Any contractual, corporate, or financial relationship (other than property transfer instrument)?*
3. *Reorganization of a business entity that was potentially liable?*

For sites already acquired, has the BFPP satisfied continuing obligations since acquisition?

1. *Provided all legally required notices with respect to discovery/release of hazardous substances<sup>2</sup>*  Yes  No  Not Applicable
2. *Taken reasonable steps to stop continuing releases, prevent any threatened future releases, prevent or limit exposure to any previously released hazardous substances*  Yes  No  Not Applicable
3. *Provided full cooperation, assistance and access to persons conducting response actions*  Yes  No  Not Applicable
4. *In compliance with any land use restrictions already established and not impeding the effectiveness or integrity of any institutional control employed at the site in connection with a response action*  Yes  No  Not Applicable
5. *Complied with any request for information or administrative subpoena issued by the U. S. EPA*  Yes  No  Not Applicable

Provide a written explanation and associated documentation to support satisfaction of continuing obligations since acquisition (below and/or attached):

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<sup>2</sup> If applying for comfort based on BFPP status for a petroleum-contaminated site, evaluate these criteria for petroleum releases rather than/in addition to hazardous substances.



## **Indiana Brownfields Program**

### **Lender Liability (Secured Creditor)**

### **Comfort Letter Request Checklist**

Potential lender or actual lender? \_\_\_\_\_

If financial transaction has already closed, what is the date of the financial instrument: \_\_\_\_\_

Pre-foreclosure or post-foreclosure? \_\_\_\_\_

**If pre-foreclosure**, please answer the following questions regarding “participation in management” of the facility on the Site:

Does the Lender exercise decision-making control regarding environmental compliance related to the facility, and, in doing so, undertake responsibility for hazardous substance and/or petroleum handling or disposal practices?  Yes  No

Does the Lender exercise control at a level similar to that of a manager of the facility and, in doing so, assume or manifest responsibility with respect to:

- day-to-day decision-making on environmental compliance?  Yes  No
- all, or substantially all, of the operational (as opposed to financial or administrative) functions of the facility other than environmental compliance?  Yes  No

**If post-foreclosure**, please answer the following:

On what date did the Lender/Owner take title to the property? \_\_\_\_\_

Does the Lender/Owner exercise decision-making control regarding environmental compliance related to the facility, and, in doing so, undertake responsibility for hazardous substance and/or petroleum handling or disposal practices?  Yes  No

Does the Lender/Owner exercise control at a level similar to that of a manager of the facility and, in doing so, assume or manifest responsibility with respect to:

- day-to-day decision-making on environmental compliance?  Yes  No
- all, or substantially all, of the operational (as opposed to financial or administrative) functions of the facility other than environmental compliance?  Yes  No

Has the Lender/Owner been actively marketing the Site for sale or re-lease or otherwise divesting itself of the property at the earliest practicable, commercially reasonable time using commercial reasonable means? (Please elaborate). \_\_\_\_\_

Has the Lender/Owner ever rejected a reasonable purchase offer for the property?  Yes  No



**Indiana Brownfields Program**  
**Lender Liability (Secured Creditor)**  
**Comfort Letter Request Checklist (*continued*)**

Has the Lender/Owner provided any Phase I and/or Phase II ESA reports to prospective purchasers?

Yes  No

Does the Lender/Owner use a third party broker to manage the Site?  Yes  No

Does the Lender/Owner have any direct lease relationships with any of the Site tenant(s)?

Yes  No