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

1. Identify 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. Identify the parcel(s) comprising the site and the corresponding 18-digit parcel number(s)
3. A legible copy of the recorded deed(s) or a surveyed legal description(s) for the parcel(s) comprising the site*
4. The date of property acquisition (or proposed property transfer/closing date)
5. A black & white site map (no aerial photos) depicting property boundaries, parcel(s) & parcel number(s)
6. Description of redevelopment project including a site redevelopment/design plan (if available)

If the basis for a Comfort Letter request is the BFPP liability exemption, please complete the attached checklist of additional information required to be submitted with your Comfort Letter request.

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 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 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 be tied

*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
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)
☐ Prospective Tenant (has not executed lease)
☐ Current Owner (seller or already purchased)
☐ Current Tenant (seeking liability protection under existing lease or intending to buy)

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? ☐ 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)?

☐ If no: Has the User/BFPP obtained a Phase I Update? ☐ Yes ☐ No

☐ If yes: Date of the Phase I Update: _____/_____/_____

(i) interviews with owners, operators, and occupants; Date Conducted: ___________ Expiration Date: ___________

(ii) searches for recorded environmental cleanup liens; ___________ ___________

(iii) reviews of federal, tribal, state, and local government records; ___________ ___________

(iv) visual inspections of the property and of adjoining properties; and, ___________ ___________

(v) declaration by the environmental professional ___________ ___________

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

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1 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.
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 substances²  
   2. Taken reasonable steps to stop continuing releases, prevent any threatened future releases, prevent or limit exposure to any previously released hazardous substances  
   3. Provided full cooperation, assistance and access to persons conducting response actions  
   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  
   5. Complied with any request for information or administrative subpoena issued by the U. S. EPA  

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² 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 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
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