



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 (type of redevelopment) 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. Summarize HUD expectations regarding known environmental conditions on the Site if HUD financing being sought
13. Tabulated and/or indexed relevant investigation/remediation reports. Other IDEM Program documentation should include assigned IDEM site # and IDEM Virtual File Cabinet (VFC) Document #s)
14. Proposed or existing vapor mitigation system specifications
15. Proposed building renovation details and/or new building construction specifications
16. Purchase details (including combining multiple parcels on one deed, acquiring parcels on separate deeds, etc.)
17. Explanation and associated documentation to support satisfaction of continuing obligations (including steps taken to mitigate exposures) if property already acquired

**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 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

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. **If the basis for a Comfort Letter request is the Creditor, Lender, or Fiduciary liability exemption**, please complete the attached checklist (on pages 5 and 6) of additional information required to be submitted with your Comfort Letter request.



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)?¹ 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): _____

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.



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 substances²* 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):

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 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