

Brownfields Revolving Loan Fund (RLF) Loans Disbursement Guidelines

December 2015



Indiana Brownfields Program • 100 North Senate Avenue, Room 1275 • Indianapolis, IN 46204
Phone: (317) 234-4293 • Fax: (317) 234-1338
www.brownfields.in.gov

General

The policies in these *Disbursement Guidelines (Guidelines)* apply to Brownfields Revolving Loan Fund (RLF) Loans (RLF Loans) administered by the Indiana Finance Authority (Authority) through the Indiana Brownfields Program (Program). RLF Loans are funded with federal funding provided by the United States Environmental Protection Agency (US EPA) to the Authority.

The following general items apply to all disbursements subject to these *Guidelines*:

- All RLF Loan recipients are required to execute a Financial Assistance Agreement with the Authority.
- RLF Loans are not retroactive. However, certain costs that are incurred by RLF Loan recipients prior to loan closing are eligible with Program approval (see below).
- All activities to be funded with RLF Loans must receive Program approval prior to implementation.
- Requests for payment should not be submitted until the applicable loan conditions, if any, have been satisfied.
- Payment will be made only to pay/reimburse expenses related to activities approved by the Program and included in the Financial Assistance Agreement. **Invoices and back up documentation are required.**
- RLF Loan recipients must follow applicable public bidding laws and rules when procuring services to be reimbursed with or paid for using RLF Loan funds. Additional information about this requirement can be found in the *Guidance on Competitive Bidding*. By signing each Disbursement Request Form (described below), a RLF Loan recipient will be affirming that the invoiced services submitted for payment or reimbursement were bid pursuant to Indiana law.
- The Davis-Bacon Act and related Acts will apply to activities conducted with RLF Loan funds.
- All invoices must be submitted to the Program for processing no later than three (3) months after the issuance of a Comment Letter, a Site Status Letter, a No Further Action Letter, or other activity completion documentation issued by the Program. Any invoices submitted for payment after that date will not be accepted.

Eligible Costs

RLF Loan funds are designated for cleanup activities at eligible brownfield sites. Eligible activities and related costs associated with cleanup include, but are not limited to:

- Documentation of the *Analysis of Brownfields Cleanup Alternatives (ABCA)*.
- Preparation of a Remediation Work Plan.
- Installation of fences, warning signs, or other security or site control precautions.
- Installation of drainage controls.
- Stabilization of berms, dikes, or impoundments; or drainage or closing of lagoons.
- Capping of contaminated soils.
- Use of chemicals and other materials to retard the spread of the release or mitigate its effects.
- Excavation, consolidation, or removal of contaminated soils.

- Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum.
- Removal of source materials, including free product recovery.
- Containment, treatment, or disposal of hazardous materials and petroleum contamination.
- Site monitoring activities, including sampling and analysis, that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup.
- Site assessment activities that are reasonable, necessary, and incidental to the cleanup process, such as cleanup verification (i.e., to confirm the cleanup is adequate to address the scope of the release) or confirmation sampling (i.e., to confirm the cleanup has adequately addressed the release).
- Costs associated with meeting public participation and worker health and safety requirements (e.g., preparation of *Community Relations Plans (CRP)* and *Health and Safety Plans (HASP)*, respectively).
- Costs associated with removal activities, including demolition and/or site preparation that are part of the site cleanup.
- Abatement of asbestos-containing materials and lead-based paint in a building that is slated for reuse.
- Costs associated with fees of legal and/or financial advisors related to closing the RLF Loan.

Additional information about eligible activities is included in the RLF Incentive Guidelines.

Other important items related to eligible expenses include:

- Maximum “mark up” on all subcontractor work, rental equipment, materials, etc. is 10%.
- Travel and lodging costs will be paid in accordance with state policy and rates. The current in-state lodging rate is \$89/night plus applicable taxes for all areas of the state *except* Indianapolis, which is \$97/night plus applicable taxes.
- The state mileage reimbursement rate is \$0.40/mile.
- Some costs that are incurred prior to loan closing may be eligible for payment/reimbursement if approved by the Program. Examples include closing costs (i.e., legal and/or financial advisor fees) and ABCA, CRP, HASP, and Remediation Work Plan preparation costs.

Please note that a final determination of eligibility of any costs charged against the RLF Loan rests with the Program. The Program may consult with US EPA if necessary.

Ineligible Costs

RLF Loan funds may not be used for:

- Costs incurred prior to final execution of a Financial Assistance Agreement, approval of Remediation Work Plan, and before receipt of notice to proceed from the Program, unless otherwise approved in writing by the Program before the costs are incurred.
- Pre-cleanup environmental assessment activities, such as site assessment, identification, and characterization with the exception of site monitoring activities as described above.

- Cleanup costs of a naturally occurring substance below background levels, products that are part of the structure and result in exposure within residential, business or community structures (e.g., interior lead-based paint or asbestos contamination which results in indoor exposure), or public or private drinking water supplies that have deteriorated through ordinary use, except as determined on a site-by-site basis and approved by US EPA, consistent with CERCLA §§ 104(a)(3) and (4).
- A cleanup cost at a brownfield site for which the RLF Loan recipient is potentially liable under CERCLA § 107.
- Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and State laws, unless such a permit is required as a component of the cleanup action.
- Construction, demolition, and development activities that are not cleanup actions (e.g., marketing of property or construction of a new non-cleanup facility).
- Cost sharing or matching requirement for another federal grant (absent statutory authorization).
- Support of job training.
- Lobbying efforts.
- Site acquisition.
- Direct administrative costs.
- Ordinary operating expenses of the RLF Loan recipient.
- Ordinary site maintenance.
- Per diem and/or meal allowance or reimbursement.
- Costs incurred as a result of unapproved changes to the Remediation Work Plan.
- Costs incurred while performing field work for which Program project managers were not provided adequate notice (at least 2 weeks prior to planned field activities).

Payment will be made in arrears following invoice submittal and approval. A Program representative must provide advance approval of any changes to an approved Remediation Work Plan/scope of work, including changes that result in modifications to the approved budget.

Process

Requests for payment or reimbursement should be accompanied by all required supporting documentation and a completed Disbursement Request Form.

Invoice Information, Required Supporting Documentation

- Invoices should contain a detailed explanation of the work performed. They should identify the nature of the service(s) and/or material(s) provided, the amount charged for the service(s) and/or material(s), the identity of the provider(s), and the date(s) on which the service(s) and/or material(s) were provided. **The Brownfields Program reserves the right to request additional information about any payment request.**
- Examples of required supporting documentation include: copies of timesheets for each staff person working on the project during the invoice period or a system-generated report that identifies each staff person's name, the amount of and date on which time was charged to the project, the activity conducted, and the hourly rate; copies of receipts for any materials or items purchased (monitoring well

- locks, ice for samples, etc.); subcontractor invoices; hotel receipts; copies of equipment and mileage logs; etc.
- Copy(ies) of written approval(s) for any changes to approved scopes of work/Remediation Work Plan should be included with invoices for payment.
 - An executed Disbursement Request Form (an electronic version is available at <http://www.brownfields.in.gov>) should also be included with each payment request.

Payment Processing

- All paperwork should first be submitted to the RLF Loan recipient for approval. The RLF Loan recipient should review the invoice package for accuracy and eligibility before signing the Disbursement Request Form and sending to the Program for payment. All requests for payment sent to the Program for processing must be accompanied by an executed Disbursement Request Form found on page 7 of these *Guidelines* (an electronic version is available at <http://www.brownfields.in.gov>).
- The Program will review the payment package and follow up on any discrepancies, missing documentation, etc. The Program must have a complete package prior to issuing payment. **The Program reserves the right to request additional information about any payment request.**
- Payment will be triggered by the satisfactory completion of the activities outlined in the payment request. Payment for report generation and submittal will follow the Program's review and approval of the report. The final payment for a project will be transmitted after the issuance of a Comment Letter, Site Status Letter, No Further Action Letter, or some other completion documentation issued by the Program.
- After invoice review and approval, an electronic payment to the RLF Loan recipient, the consultant, or the contractor (as directed on the Disbursement Request Form) will be processed by the Program within 45 business days of receipt of a complete disbursement package.
- **Please note:** Failure to comply with the Davis-Bacon Act and related Acts or provide timely information and responses to the Program's Davis-Bacon consultant may result in delayed payment.

Disbursement Request Form

INDIANA BROWNFIELDS PROGRAM - DISBURSEMENT REQUEST FORM

Instructions: This Disbursement Request Form should be used for all disbursements on RLF Loan projects.
It is to be typed and completed by the RLF Loan Recipient and submitted with each payment request.

- The Disbursement Request Form is to be used for all eligible costs associated with the RLF Loan Recipient's brownfield redevelopment project.
- This request should be accompanied by a copy of the claim (a bill or invoice) supporting this request.
- Requested amounts must be rounded to the nearest whole dollar.
- A copy of the Program's change order approval should be included if any part of the current claim is a result of a change order.

1. Program Site Number: _____
2. Project Name: _____
3. RLF Loan Recipient: _____
4. Contact Person: _____
5. Mailing Address: _____
6. Phone Number: () _____
7. Email: _____
8. RLF Loan Recipient's Authorized Representative: _____
9. Authorized Representative's Phone Number: () _____
10. Consultant/Contractor: _____
11. Contact Person: _____
12. Mailing Address: _____
13. Phone Number: _____
14. Email: _____
15. Payment/Wiring Instructions (for the entity receiving payment)
15a. Bank Name: _____
15b. Bank Contact, Phone Number: _____
15c. Account Number: _____
15d. ABA/Routing Number: _____
16. Pay Request Number: _____
17. Invoice Number: _____
18. Description of work for which claim is being made (service, fees, type of, etc.): _____

19. Amount of This Request: \$ _____
20. Original Loan Amount: \$ _____
21. Total Amount of Previous Disbursements: \$ _____
22. Balance Available After This Disbursement: \$ _____
23. Is any part of this claim a result of a change order? YES _____ NO _____
 *If yes, please attach the Program change order approval
24. Do you want payment mailed directly to the consultant/contractor? YES _____ NO _____
 *If yes, payment will be sent directly to the entity listed in #10 above

The undersigned hereby certifies that this Request is true and correct, that the claim underlying this Request is due in accordance with the Participant's Financial Assistance Agreement with the Authority, and that the services contained in such claim were procured in accordance with Indiana's public bidding laws and federal cross-cutting requirements (e.g., Davis-Bacon), if applicable.

AUTHORIZED REPRESENTATIVE SIGNATURE

Date