

REMEDIATION LOAN PROGRAM GUIDELINES

1. PURPOSE

The goal of The Port of Greater Cincinnati Development Authority's (The Port) Remediation Loan Program is to ensure that contaminated properties are appropriately assessed, cleaned up, and reused. Often, the inability of a developer to secure capital to conduct necessary environmental cleanup of a property prevents the property from being redeveloped. The Remediation Loan Program will also establish a revolving loan fund that is self-sustaining.

2. OVERVIEW

What is the Remediation Loan Program?

The Port has been awarded an \$800,000 grant from the United States Environmental Protection Agency to create a revolving loan fund. The Port will administer the loan fund to facilitate the reuse and/or redevelopment of contaminated properties by making low-interest loans available for financing environmental cleanups.

3. ELIGIBLE PROPERTIES

What sites are eligible for the Remediation Loan Program?

A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Brownfields are eligible properties. Properties with petroleum contamination and sites contaminated by a controlled substance (i.e. drug labs) may also be eligible for the Remediation RLF program.

Properties will require a VAP Standard Phase I ESA, Phase II ESA and a Remedial Action Plan (RAP) with a proposed budget to apply. The Port reserves the right to make exceptions based on the nature of the project.

What sites are NOT eligible for the Remediation Loan Program?

- Properties listed or proposed for listing on the National Priorities List (NPL) (i.e., Superfund Sites).
- Properties subject to a unilateral administrative order, a court order, an administrative order on



THE PORT

Making Real Estate Work

- consent or judicial consent decree issued or entered into by parties under CERCLA.
- Properties subject to the jurisdiction, custody, or control of the United States Government, except for land held in trust by the United States for an Indian Tribe.
- Sites inconsistent with community development standards, community development plans, or local zoning codes.
- All sites must comply with the relevant requirements of CERCLA 104(k) – Site Selection Requirements.

The following properties may be eligible for funding with a “property specific determination.” The Port will make an initial determination and submit to the EPA for review and concurrence. If one of the line items below describes your property, consult with The Port to determine if a property specific determination is appropriate.

- Properties that a federal or state agency is planning or conducting a response or enforcement action.
- Properties subject to planned or ongoing CERCLA cleanup actions.
- Properties subject to corrective action orders under RCRA.
- Properties with land disposal units that have filed a closure notification under subtitle C of RCRA and to which closure requirements have been specified in a closure plan or permit.
- Properties where there has been a release of polychlorinated biphenyls (PCBs) and are subject to remediation under TSCA.
- Portions of facilities for which funding for remediation has been obtained from the Leaking Underground Storage Tank (LUST) Trust Fund.
- Subject to judicial action under CERCLA.

4. ELIGIBLE BORROWERS

Who is eligible for a Remediation Loan?

Loans may be made to any public or private entity with control over or access to a Site requiring cleanup if:

- a) The entity is authorized to enter into a loan agreement;
- b) The entity carried out all appropriate inquiries to meet the definition of “innocent landowner”, or “bona fide prospective purchaser.”
- c) The entity is not a “Potentially Responsible Party” as defined in CERCLA Section 107 at the site where the loan will be used.

5. ELIGIBLE ACTIVITIES

Remediation Standards

Projects are strongly encouraged to follow the Ohio EPA Voluntary Action Program Memorandum of Agreement Track to receive a Covenant Not to Sue (CNS) and No Further Action Letter (NFA). Borrowers are required to retain a VAP Certified Professional (CP) for remediation oversight. If an NFA or CNS is not



pursued, the borrower is required to follow VAP Standards and obtain a letter from Ohio EPA stating that the cleanup was completed as described in the OEPA-approved RAP.

What activities can be funded?

The Purpose of the RLP is to fund environmental cleanup. Additional actions beyond cleanup can be funded but they must be associated with cleanup. Examples of those actions include, but are not limited to:

1. Installation of fences, warning signs, or other security or site control precautions.
2. Installation of drainage controls.
3. Stabilization of berms, dikes or impoundments or drainage or closing lagoons.
4. Encapsulation of contaminated soils.
5. Using chemicals and other materials to retard the spread of the release or mitigate its effects.
6. Excavation, consolidation or removal of contaminated soils.
7. Removal of drums, barrels, tanks or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum.
8. Containment, treatment, or disposal of hazardous materials and petroleum contamination.
9. Site monitoring activities, including sampling and analysis, that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup.
10. Costs associated with meeting public participation, worker health and safety, interagency coordination requirements, and programmatic management requirements.
11. *Please note that capping of contaminated soils (i.e. constructing a parking lot, building floor, etc.), if a required cleanup activity, is an eligible cost.*

Expenses that have been incurred prior to loan closing cannot be reimbursed.

What activities CANNOT be funded?

1. Pre-cleanup environmental assessment activities, such as site assessment, identification, and characterization with the exception of site monitoring activities as described above.
2. Public or private drinking water supplies that have deteriorated through ordinary use.
3. A cleanup cost at a brownfields site for which the recipient of the loan is potentially liable under CERCLA § 107.
4. 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.
5. Construction, demolition, and development activities that are not cleanup actions (e.g., marketing of property or construction of a new non-cleanup facility).
6. Cost sharing or matching requirement for another federal grant (absent statutory authorization).
7. Support of job training.
8. Support of lobbying efforts of the recipient.



6. COMPLIANCE REQUIREMENTS

A. ABCA

The Applicant must provide an Analysis of Brownfield Cleanup Alternatives. This expense (less cost share) is eligible for funding through the Remediation Loan Program. The ABCA must evaluate at least 3 alternatives, with one being “no action” for their cost, effectiveness, ability to be implemented, and resilience to severe storm events.

B. CIP & Public Comment Period

The Applicant must provide a Community Involvement Plan that will provide for 30 days of public comment. The Borrower will issue a decision document at the end of the Public Comment period that incorporates public comments.

C. Administrative Record

The Project’s Administrative Record must be made available to the public during the public comment period. The Administrative Record includes:

- An analysis of reasonable alternatives (ABCA)
- Site investigation reports
- The Remedial Action Plan
- Cleanup standards used
- Health and Safety Plan

D. Davis-Bacon Prevailing Wages

Remediation contractors must be paid the federal prevailing wage. The contractor will submit Davis-Bacon payroll sheets to The Port and comply with all federal prevailing wage requirements. The remediation contractor work must be performed under its own contract.

E. National Historic Preservation Act

Work that affects a historic property must be reviewed by the State Historic Preservation Office (SHPO). If the SHPO has not already reviewed, The Port will assist with SHPO Review.

F. Endangered Species Act

No remediation work shall negatively impact endangered species act. The Applicant shall provide a statement that the Endangered Species Act will not be violated as part of the proposed project.

G. Economic Inclusion

Review The Port’s Economic Inclusion Policy. As part of this Remediation Loan Program application, the Applicant will be diligent in their efforts to include MBEs, WBEs, and SBEs in all phases of the activities funded through this Program.



H. Reporting Requirements

The Borrower must track the following information and provide it to The Port so that the Port may meet the EPA's quarterly reporting requirements:

- Project Narrative
- Documentation of progress at meeting the performance outputs/outcomes
- Project timeline with milestones, and an explanation for any inability in meeting established output/outcomes;
- A budget summary page with the following headings:
 - a. Current Approved Budget
 - b. Costs Incurred this Quarter
 - c. Costs Incurred to Date
 - d. Total Remaining Funds
- Documentation that funds are used only of eligible activities at eligible sites
- Environmental reports showing compliance with the cleanup activities
- Financial records related to the loan
- Records documenting compliance with the terms and conditions of the loan, including applicable state and federal requirements.

7. LOAN PARAMETERS

Loan terms are flexible and dependent upon project and borrower needs. The Port has established the loan terms and conditions to be used as general guidelines for all loans.

I. Loan Amount

The anticipated minimum loan amount is \$25,000 and the maximum is \$250,000. Each loan amount will be determined on a project-specific basis.

J. Interest Rate

The interest rate is the amount of interest charged to the applicant for the loan. The Remediation Loan Program interest rates will be determined on a project-specific basis, but will be loaned below the current market rate.

K. Terms

The term (payback period) is negotiable and will be established according to the applicant's eligibility and/or need. The anticipated term will be between one and five years. There is no penalty for prepayment of the loan and deferred payment may be available.

L. Matching Cost Requirement



THE PORT

Making Real Estate Work

The borrower will be requested to provide matching costs of 20% of the amount of the total loan. This 20% match must come from payment of Remediation Loan Program eligible activities.

M. Collateral

The preferred means of securing the loan is a subordinated mortgages on the property. If the applicant has a preferred method of securing the loan, The Port will consider it. The Collateral shall be equal to the size of the loan.

N. Closing Fees

Attorney document preparation fees and normal out of pocket closing costs are charged to the borrower.

8. LOAN DISBURSEMENTS

Disbursements will be made to the borrower under the following conditions:

- 1) The borrower will provide a written disbursement request with copies of invoices for each cost incurred. The borrower shall maintain complete documentation of all project costs for audit purposes. The borrower shall be responsible for maintaining financial control of the project by carefully reviewing all disbursement requests and supplemental documentation before submitting the disbursement request to The Port.
- 2) Disbursements will not be processed more often than once monthly.
- 3) Within 7 days the borrower shall remit each disbursement to the firm or individual to whom payment is due.

Expenses that have been incurred prior to loan closing cannot be reimbursed.

9. APPLICATION INSTRUCTIONS

Application and Information Submitted:

The completed Remediation Loan Program application and attachments will be used by The Port to determine an applicant's eligibility for participation in the program.

Where to Send Application:

Send completed application, application fee, and supporting information, to the Port. Digital applications



THE PORT

Making Real Estate Work

in pdf format are acceptable. Send digital copies to:

Chris Meyer – cmeyer@cincinnatiport.org

Hard copies may be sent to:

The Port
Chris Meyer
Industrial Development Manager
East 4th Street
Suite 300
Cincinnati, OH 45202

Questions on Eligibility and/or Completing the Application:

Contact: Chris Meyer
Phone: 513-632-3757
Email: cmeyer@cincinnatiport.org

