

CALIFORNIA RECYCLE UNDERUTILIZED SITES PROGRAM (CALReUSE)

Administering Agency:	California Pollution Control Financing Authority
Program:	California Recycle Underutilized Sites Remediation Program
Bond:	Proposition 1C
Department Name:	California Pollution Control Financing Authority
Bond Statute:	Title 4, Section 8090 to 8102.15
Implementing Statute:	Health and Safety Code 44548(b)
Updated:	April 1, 2011

Accountability Plan: As required by Executive Order S-02-07, the following is the three-part accountability structure for this program as identified in its regulations (Title 4, Division 11, Article 9, Sections 8090, and 8102 through 8102.15).

Front-End Accountability

The CALReUSE Remediation Program (“Program”) is a grant and loan program funded by Proposition 1C, The Housing and Emergency Shelter Trust Fund Act of 2006, and further defined by the Legislature in the 07-08 Budget Act and trailer bill. Administered by California Pollution Control Financing Authority (“Authority” or “CPCFA”), in consultation with the Department of Housing and Community Development, the Program finances brownfield cleanup that promotes infill residential and mixed-use development, consistent with regional and local land use plans. Grants and loans are available up to \$5 million for eligible projects. Health and Safety Code Sections 53545.14 and 44526(h) are the primary governing statutes, and the Program’s established regulations can be found at CCR Title 4, Division 11, Article 9, Sections 8090, and 8102 through 8102.15 (the “Regulations”).

Program Development. In developing the Program, staff conducted a nine-month process of information gathering and consultation, which included stakeholder meetings, teleconferences, and public workshops across the state involving: state agencies, infill developers, brownfield cleanup practitioners, affordable housing advocates, local redevelopment agencies, environmental justice and social justice advocates, environmental attorneys, and financiers. Through this process, the staff gained a strong understanding of the Program’s mandate, California’s housing need, and program structuring concerns. Staff believes the Program regulations appropriately balance programmatic, legal, and public policy considerations. CPCFA undertook an emergency regulation process that was completed in February 2008 and completed the permanent rulemaking process in February 2009.

Program Goal. The CALReUSE Remediation Program’s goal is to spur the cleanup and redevelopment of brownfields for residential and mixed-use development within California’s infill areas. The Regulations establish priority and competitive criteria that favor projects with the most public benefits, and the deepest depth and duration of affordability. As noted above, the Program provides grants as well as very low interest loans. This two-tiered structure enables the Program to absorb much of the inherent risk that impedes the redevelopment of brownfields. The number of redeveloped sites, housing units, and affordable housing units are measures of the Remediation Program’s success.

Program Administration. As funding becomes available, CPCFA staff makes applications available for projects and provides administrative assistance to applicants, borrowers and grantees

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via our website <http://www.treasurer.ca.gov/> or direct contact to our office. CPCFA presents the completed application the Authority's Board, facilitating the execution of Infill Grant Agreements and Infill Loan Agreements. Once approved, CPCFA is responsible for file management and reviews disbursement requests for eligible costs, authorizing payment for work completed in scope of the grant/loan agreement according to state accounting practices and in consistency with the cleanup plan for brownfield infill projects. CPCFA maintains open communication with the borrower/grantee throughout the life of the agreement and authority over general bond expenditures to ensure transparency and accountability.

By statute, CPCFA is authorized to work in conjunction with public and private sector entities, including but not limited to other state entities, cities, counties, school districts, redevelopment agencies, financial institutions, and for-profit and non-profit development entities. Historically, CPCFA used a collaborative approach of engaging Strategic Partners to administer the CALReUSE Programs. Strategic Partners would assist to select projects, distribute grant and loan funds, and administer and market the Program. Due to budgetary constraints, as of March 1, 2011, CPCFA staff administer the Program in-house. CPCFA entered into an agreement with the Department of Toxic Substance Control (DTSC) for environmental technical assistance services.

DTSC staff review Borrowers disbursement requests and final reports submitted to the Authority; applying their knowledge and experience of environmental assessment and the redevelopment process of brownfield sites. Utilizing the recommendations from DTSC staff the Authority will ensure that the project meets the regulatory and contract guidelines and is in consistency with the Cleanup Plan for the Brownfield Infill Project. DTSC provides experienced staff to educate/inform stakeholders on environmental regulatory processes, reporting requirements and issues as they relate to site redevelopment, including working with various oversight agencies.

Application Requirements. Applications must be submitted to the Authority no fewer than 30 calendar days prior to the monthly Board meeting. Authority staff will review applications to ensure that projects meet the various eligibility criteria and make recommendations to the Authority Board for consideration. Applicants and projects must meet a number of eligibility criteria, including:

- The development of residential or mixed use development.
- Local government and community support for the project.
- Consistency with local and regional land use plans.
- Experience in developing projects.
- Financial ability to complete the project.
- Remedial cleanup plan that has been at a minimum submitted to a regulating oversight agency.
- Request eligible costs under the Program.

The Authority considers applications at its regularly scheduled Board meetings on a monthly or rolling basis, as long as funds are available. On September 3, 2008, the Authority noticed all interested parties that applications were available and consistent with Program Regulations. The Authority also notified interested parties that applications would be considered on a rolling basis as long as Program funds are available beginning at the November 19, 2008 Board meeting. The

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notice was distributed electronically to all interested parties who requested to be included in the Authority's outreach efforts and stakeholder process.

Currently the Remediation Program is oversubscribed; new applications are not being accepted for review or consideration. Postings and program updates are updated on the Program website, and a link is provided through the Department of Housing and Community Development's website. Interested parties may sign up to receive Authority notices either [on line](#) or by contacting the Authority at 916-654-5610.

Public participation is encouraged in the Authority's consideration of projects. Consistent with the Bagley-Keene Open Meeting Act of 2004, [agendas and staff summaries](#) are posted on-line and distributed to interested parties prior to Authority meetings at which projects are approved. Information and updates on projects approved by the Authority are posted by the Authority staff on the CALReUSE [website](#), at www.treasurer.ca.gov/cpcf/calreuse.asp.

In-Progress Accountability

Awardees are required to spend funds according to the project scope and budget approved by the Authority. Grant and loan proceeds are distributed in arrears, reimbursed to an awardee after the eligible activity is completed. Disbursement requests are reviewed by both DTSC and the Authority to ensure eligibility of costs and the activities have been paid by the borrower/grantee.

In addition to reviewing each disbursement request, the Program includes several structural elements to ensure that awardees "do what they said they'd do" and ensure that bond proceeds are utilized appropriately and timely. Awardees must meet specific project readiness criteria prior to the Authority executing grant and loan documents, and must identify all alternative sources of financing to complete the brownfield cleanup prior to drawing upon state funds.

Given that the Program facilitates the cleanup of brownfields ultimately leading to the production of housing, and the funding of the Program is a housing bond, the Authority has structured the Program to ensure that awardees are held accountable for both the brownfield cleanup and the production of housing. The Authority requires two final reports from the borrower/grantee within the term of the agreement between an awardee and the Authority. The first is the *Brownfield Remediation Final Report* (Regulation 8102 (c)) requiring certification that the brownfield cleanup is complete per the appropriate regulatory agency and that the awardee complied with all applicable laws and regulations. The second is the *Completed Infill Development Project Report* (Regulation 8102 (e)) requiring the awardees to present a certificate of occupancy indicating that individuals may move into the housing units, as well as a regulatory agreement, if applicable, to ensure the affordability thresholds represented by awardees. Failure to provide these reports may result in an awardee being in default and legally required to pay back the awarded funds. Awardees must comply with all current laws and regulations that apply to the project. The Authority also requires awardees to record a notice on the title of the project property, which declares any restrictions to the property specific to the brownfield cleanup or housing due to the agreement with the Authority. Failure to complete a project will result in the Authority taking default recourse.

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The Authority provides semi-annual reports to the Department of Housing and Community Development, per the inter-agency agreement between the entities, that information reported includes: total available funds for awards, number of Notice of Funding Availability (NOFAs) released to date, number of applications received, dollar amounts of applications received, number of awards made, total dollar amount of awards, estimated funds remaining, activity/comments (brownfield remediation), and funds leveraged. Semi-annual reports on Program activity are also submitted to the Department of Finance.

The Authority provides [annual reports](#) to the Legislature pursuant to Health and Safety Code Sections 44525.7 and 53545.14, that include at least the following information: a summary of the projects that receive loans or grants; the description, location and estimation of completion for each recipient project; and an update on the status of each project and the number of infill housing units facilitated by the Program.

Follow-Up Accountability

The Program includes several programmatic structures and procedures to ensure that bond proceeds will be effectively utilized to achieve the projects intended outcomes.

- **Pre-Award Evaluations:** Applications are reviewed prior to being considered for an award to ensure applicants have the experience, funding and ability to complete both the brownfield project and housing project.
- **Interim Monitoring:** Awardees are required to submit quarterly reports to the Authority to remain in good standing and be eligible for funds awarded under the Program. Each report submitted must include a description of activities performed; the progress made toward completing the brownfield infill project, and estimate a timeframe for submitting the *Brownfield Remediation Final Report*. In addition, Awardees must include a description of activities performed and the progress made toward completing the infill development project.
- **Final Project Review:** Per the Program's regulations, an awardee has at least 6 years to complete the project and fulfill its obligation to the state; otherwise it may be at risk of default. Awardees remain obligated to the state until the established project outcomes are achieved, or alternatively, default measures are enacted. The fruition of established outcomes are illustrated through an awardee's provision of: (a) the equivalent of a "No Further Action" letter specific to the brownfield that is provided by the oversight/regulatory agency (DTSC, Regional Water Board, or agency assigned to the project) and (b) a *Certificate of Occupancy and Regulatory Agreement* (if required), or its equivalent, from the appropriate local public agency (Regulation 8102 (d)).

Awardees are required to maintain adequate books, accounts, records and financial statements in accordance with generally accepted accounting principals and practices. The Authority retains the right to inspect these records and project sites.

CPCFA is subject to periodic audits conducted by the Bureau of State Audits. Periodic audits will determine that the Program's front-end criteria, procedures and legal requirements have been met thus allowing for transparency and an accountability platform for the Authority, stakeholders, and awardees.