

Cleanup Costs Only - Processing Ability-to-Pay Applications associated with Cleanup Sites

The ability for a responsible party (RP) to pay the costs associated with cleanup of discharges and releases subject to the requirements of 62-780 F.A.C. is a critical component in determining if a cleanup site is eligible for the state funded cleanup program. Any request for an Ability-to-Pay submittal will include close consultation with the Office of General Counsel (OGC) concerning the liability of the RP. The district staff will inform OGC of any ability to pay determination concerning active OGC cases involving the RP.

All Ability-to-Pay applications for site cleanup costs only will be coordinated with the Division of Waste Management's (DWM's) Environmental Administrator, Brian Dougherty. The **District Site Managers** are responsible for ensuring all necessary information is present in the Ability-to-Pay application. For applications received by the district, the **District Site Managers** are responsible for ensuring the unredacted information is placed into Waste Cleanup's **Oculus_Restricted** folder for the appropriate project. In addition to the application, district staff will include in the **Oculus_Restricted** folder a project summary that details the site history and any assessment or remedial activities conducted to date.

Some Ability-to-Pay applications may be received by the assigned OGC attorney. OGC will be responsible for ensuring the unredacted information is placed into Waste Cleanup's **Oculus_Restricted** folder for the appropriate project and notifying the **District Site Manager** within 5 working days.

Upon receipt of the appropriate affidavits or notification of OGC's insertion of the application, the **District Site Manager** within 5 working days evaluate that information and either confirm that the application package is complete or request the missing information from the RP or through OGC to the RP's representatives.

The initial evaluation of the RP's ability to conduct site cleanup will be done by district staff. Precise cost estimates of the cleanup may not be available, but general assumptions can be made based upon Department costs in the petroleum program, in state funded cleanup and from site investigation section activities. Within 15 days of a complete application, district staff will complete a generalized evaluation of the Ability-to-Pay application and provide a recommendation to DWM's Environmental Administrator. District staff can obtain asset and income information about an RP from a service used by OGC that generates what is known as a CLEAR report. District staff can request a CLEAR report by contacting OGC's office manager. Screening thresholds such as grossly estimated cleanup costs exceed the RP's average annual adjusted income or exceed corporate or individual assets would indicate a likely lack of the ability to fund the cleanup.

The recommendation memo to be prepared by district staff should indicate whether the RP clearly does not appear to have the funding necessary and should be considered for the state-funded cleanup **or** that the RP may have the ability to fund cleanup and additional evaluation by OIG or other financial experts is recommended. In addition to the site and project management information, the recommendation memo will include a link to the information in Waste Cleanup's **Oculus_Restricted**. Final district approval of the memo will be by the Program Administrator/Assistant Director.

For statewide consistency, the DWM will determine if the recommendation is appropriate and the DWM's Environmental Administrator will coordinate transmittal of an application review request to the Office of Inspector General (OIG). District staff are responsible for any additional information requested by either the Division or the OIG.

Application affidavit forms for both individuals and partnerships and for corporations are available at: <https://www.floridadep.gov/waste/petroleum-restoration/content/ability-pay-information>. The checklists for the affidavits are present as Page 1 in each form.