



# Fact Sheet

## Ability to Pay (ATP)

Why is an Ability to Pay (ATP) review required for a Site Cleanup Subaccount Program (SCAP) grant?

One of the requirements for a project to be eligible for a SCAP grant is that the responsible parties / potentially responsible parties must lack the financial resources to investigate the source of surface or groundwater contamination and/or remediate the harm or threat of harm to human health, safety, or the environment caused by existing or threatened surface or groundwater contamination, as directed by the regulatory agency. (Health and Saf. Code, § 25299.50.6, subd. (b)(3)(B).) SCAP staff conduct an ATP review to determine if the project meets this eligibility requirement and whether the responsible parties have an ability to pay any portion of the reasonable and necessary remediation costs.

What is ATP?

ATP can be defined as the capacity of an individual or entity to pay for the investigation and remediation of the contamination after servicing existing debts. SCAP staff perform an analysis based on the financial information provided for each responsible party / potentially responsible party over the projected duration of the grant. Please note that there are circumstances where SCAP staff will not request financial information from a responsible party / potentially responsible party because it can be readily determined that the party is not financially viable without additional information such as where the party is deceased, dissolved, or defunct.

How is ATP calculated or determined?

SCAP staff will use one or both of the factors below to determine ATP, in addition to considering other financial factors on a case-by-case basis.

- Cash Flow
  - Over the length of the grant, how much can each responsible party / potentially responsible party afford to contribute towards the cleanup?
- Assets
  - Are assets available that show whether a responsible party or potentially responsible party is financially viable?



## What kind of financial documentation is a responsible party / potentially responsible party required to provide?

Below is a general guide of information that may be requested by SCAP staff, however, please note that requested information is fact-specific.

- Individuals, Sole Proprietorships, and General Partners of General Partnerships
  - Most recent three (3) years of federal tax returns
  - Schedule of Real Estate
  - INDIPAY Form (personal financial statement)
- Corporations (Subchapter S or C), Limited Liability Corporations, and Partnerships
  - Most recent three (3) years of federal tax returns
  - Schedule of Real Estate
- Trusts or Estates
  - Most recent three (3) years of federal tax returns
  - Schedule of Real Estate
  - Request for Trust Information form.

## What if a responsible party / potentially responsible party does not want to provide the financial information requested by SCAP staff?

SCAP is a voluntary program. Failure to provide requested information may result in a project being determined ineligible for a SCAP grant.

## I do not agree that I am a responsible party / potentially responsible party. May I bypass the ATP process?

The regulatory agency overseeing the cleanup case determines who is a responsible party / potentially responsible party and provides SCAP with this information, which SCAP staff use to determine from whom to request financial information. SCAP staff do not have authority to name responsibility party(ies) / potentially responsible party(ies). If you have any questions or concerns, you must contact the regulatory agency overseeing the cleanup case.

## Program Contacts

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