



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

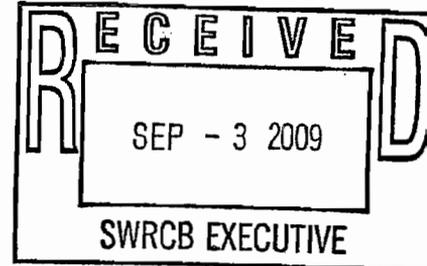
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Arnold Schwarzenegger
Governor

September 2, 2009



Members of the Board
State Water Resources Control Board
1001 I Street, 25th Floor
Sacramento, CA 95814

Members of the Board:

The UST Cleanup Fund Task Force is pleased to submit the attached recommendations, pursuant to State Water Board Resolution No. 2009-0042, adopted by the Board on May 19, 2009. The UST Cleanup Fund is currently undergoing a program evaluation by the consulting firm of Sjoberg Evashenk. These recommendations will be included as part of the evaluation.

Please contact me at (510) 839-4000, extension 234, if you have any questions related to the recommendations.

Sincerely,

Markus Niebanck, Chairman
UST Cleanup Fund Task Force

Attachment

cc: Dorothy Rice, Executive Director

Allan Patton, Assistant Deputy Director
Division of Financial Assistance

Miles Burnett, Assistant Deputy Director
Division of Administrative Services

Underground Storage Tank Cleanup Fund ("USTCF") Program Evaluation – Task Force Recommendations.

The Task Force has organized its comments and suggestions in a format below that is consistent with the State Water Resources Control Board's (State Water Board) Request for Offer, dated March 27, 2008, Task II: Program Evaluation (RFO). The RFO identified 10 categories for a comprehensive program evaluation for the State Water Board's fiscal and administrative management of the USTCF. An eleventh category was added that includes Task Force comments and suggestions that did not easily fit into an existing RFO category.

1. Compliance with Statutes, Regulations, Policies and Procedures

A. If the USTCF is not in compliance with the previously listed statutes and regulations, what steps can the USTCF take to comply with the following statutes and regulations?

- The 60-day deadline to pay reimbursement requests (Title 23 Code of Regulations [Title 23], section 2812 General Procedures for Reimbursement)
- 30-day deadline for a Fund Manager decision on an appeal of a staff decision (Title 23, section 2814 Fund Manager Decision)
- 30-day deadline for final division decision on an appeal of a Fund Manager Decision (2814)

2. Efficiency and Effectiveness for Reimbursement Eligibility and Awarding Funds (Claimant)

A. How is the USTCF staff time currently allocated for review of claim/claimant eligibility?

B. Is there duplication of effort by USTCF staff (e.g., review by different units of the USTCF for the same task)? If so, what would be the appropriate workflow?

C. How could these processes be improved?

D. How are technical reviewers trained in procedures and processes for determining claim eligibility? How is their performance evaluated?

E. What procedures are in place to ensure that there is consistency between the various technical reviewers (claim eligibility)?

F. How could the USTCF facilitate bridge financing or other financial mechanisms to assist claimants while USTCF reimbursement requests (RR) are being reviewed, processed, prioritized and then payment issued?

G. How is the USTCF staff time currently allocated for review of claimant eligibility?

3. Efficiency and Effectiveness for Processing and Paying Claims (Including Processing Applications and Reimbursement Requests)

The USTCF Task Force incorporates 2A, 2B, 2C, 2D and 2E in its requests for evaluation of this task. Additionally it requests the program evaluation include the following:

- A. Provide data on delays in processing RR's, including the five most common reasons why RR review is delayed. Similarly, provide data on the five most common reasons payments are delayed and recommendations to improve the claims review and payment processes.
- Example: How much of re-submitted and pending costs are eventually approved and paid by the USTCF? How long does it take to review and process? How can this be made more efficient?
- B. Provide data (dollar amounts as well as percentages) that compares the amount requested in a RR with the actual amount paid.
- C. Provide data (dollar amounts as well as percentages) on processing of re-submitted and pending costs, including the time to process and the five most common reasons the review and payments are delayed, and recommendations to improve the process.
- Do the results provide any indicators of weakness in the initial claim review process?
- D. Evaluate how the USTCF determines and applies "commensurate" when reviewing and approving RRs .
- E. Evaluate the consistency of USTCF staff in the application of "reasonable and necessary" reimbursable corrective action costs.
- F. Does the USTCF staff consistently follow the 10/1/20001 USTCF Cost Guidelines? Do the Cost Guidelines need to be revised and updated?
- G. Costs Denied by the USTCF staff:
- How frequently does the USTCF staff deny requests for reimbursement of work previously approved by the oversight agencies because the USTCF staff independently determines the work is not reasonable or necessary?
 - When USTCF staff denies costs approved by the oversight agencies, are the denials justifiable (i.e., has a system been running for a number of years with no significant reduction in contamination levels)?
 - Evaluate the dispute resolution process between USTCF staff and the oversight agencies and make recommendations.
 - Evaluate the amount of USTCF resources devoted to denials and related disputes for oversight agency approved tasks?
- H. Evaluate the impact of implementing a peer review of claims to facilitate consistency in the RR review process.
- I. Evaluate the current process of informal communication with claimants when RR's are deficient. Are Technical Reviewer's and Fund Staff consistent with the current process? Can it be improved?

- J. Does the USTCF have performance metrics in place at the organization/department/staff levels? Are these effective methods?
4. Efficiency and Effectiveness of Review for Claims, Payments, Cost Pre-Approval, Settlements, Assignments, Closure, and Five-Year Review
- A. Provide a comparison of orphan sites vs. standard USTCF sites including the time for closure of USTCF eligible sites vs. non USTCF petroleum UST sites, and analyze by priority category for USTCF sites.
 - B. Assess and recommend ways to improve the efficiency of dispute resolution procedures.
 - C. Evaluate USTCF's current use of electronic processes and whether expansion of electronic processes for claims processing, RRs, etc., would be cost effective. If so, how should these be implemented?
 - D. Provide feedback/data regarding the completeness of RRs received.
 - E. Evaluate the effectiveness of the five-year review process and recommend improvements to increase case closures or other changes in site status.
5. Efficiency and Effectiveness of Accounting for Revenue and Expenditures
- A. Are USTCF revenues being used by the State Water Board, Regional Water Quality Control Boards (Regional Water Boards) or Local Oversight Program agencies (LOPs) to support other state or local programs not related to the USTCF?
 - B. Use of the USTCF account as a clearing account for other State Water Board special funds:
 - 1. Should the USTCF account be used as a clearing account for other State Water Board special funds? Are there other options for the clearing account?
 - 2. Should administrative costs associated with managing the USTCF as a clearing account for other State Water Board programs/funds be reimbursed to the USTCF?
 - 3. Should other State Water Board funds/programs reimburse the USTCF with interest? If so, what should be the appropriate interest rate?
 - C. Compare California administrative and oversight costs for the USTCF against other states' similar costs. Comment on the comparison, – i.e. how does California compare?
6. Efficiency and Effectiveness for Ensuring Reimbursement Requests Are for Allowable and Appropriate Use of Reimbursement Funds by Claimants
- A. How effective is the USTCF in identifying and recovering inappropriately reimbursed funds?

7. Internal Controls

The USTCF Task Force has no additional comments on this task.

8. Cash Flow Management Practices

- A. Determine whether there are other sources of short-term cash available to pay RRs right away.
- B. Evaluate the current reserve amount of the USTCF. Is it consistent with other governmental programs of its relative size? What is an appropriate reserve amount for the USTCF?
- C. Evaluate the causes of the increase in administrative and overhead costs over the last five years.
- D. Would a continuous appropriation for the USTCF have a positive effect on cash flow and RR payments? If so, how?

9. Revenue and Expenditure Forecasting Practices

- A. Evaluate the USTCF's current method of Revenue and Expenditure Forecasting Practices. How can the USTCF improve its forecasting of revenues and expenditures?
- B. Does the USTCF have a mechanism in place to account for the future payment of all claims (active and inactive by priority)?
- C. Identify alternatives used by other states other than suspension of claims to address cash shortages.

10. Funding, Accounting For and Managing Activities and Accounts Supported by the USTCF

The USTCF Task Force has no additional comments on this task.

11. Other

- A. Benchmark California's USTCF program against similar reimbursement programs in other states to evaluate program costs and efficiency and effectiveness, and to help provide recommendations for improvements (e.g., preapproved costs, frequency of RR submittal, work orders). Specifically evaluate other states' cost and method to administer the reimbursement program (internally managed or outsourced to a third party).
- B. Evaluate current claim and project data and cost information tracking and recommend improvements and efficiencies.
 - Examples: How much does an assessment typically cost? How long does a typical assessment take? What is the relationship between assessment costs and the number of tanks or extent of release?

- C. Evaluate the interaction between the USTCF staff and oversight agencies for consistency and potential opportunities for decreased claim processing time.
- D. Provide feedback/data regarding completeness of RRs received.
- E. Determine the financial impact, if any, of entities receiving reimbursement from the USTCF, but not paying fees into the fund. This should include broad categories of claimants as well as individual entities (i.e., entities delinquent in paying fees, but still receiving reimbursement).