

United States Department of Agriculture
Research, Education, and Economics

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Policies and Procedures

Title: Hazardous Waste Cleanup Funds

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Originating Office: Facilities Division, Safety, Health, and
Environmental Management Branch, AFM/ARS

This Replaces: P&P 230.1 dated September 25, 1998

Distribution: ARS Offices in Headquarters, Business Service Centers and
Field Locations

This P&P describes the policies and procedures regarding the request, use and management of Hazardous Waste Cleanup funds.

1. Purpose

This Policy and Procedure provides information on a special departmental appropriation, the Hazardous Waste Cleanup (HWC) fund, also referred to as the Hazardous Materials Management Appropriation fund. It describes the requirements for its use as well as restrictions and provides procedures for requesting funds and managing accounts.

For more specific details and guidance on financial procedures, please refer to DM 5600-1, “Environmental Pollution Prevention Control and Abatement Manual,” and P&P 325.1-ARS, “Funds Control at the Operating Level.”

2. Background

In 1988, Congress established a special appropriation to assist agencies meet the high costs associated with conducting hazardous material release investigations and cleanups. The appropriation was established as a “no-year” fund because of the complex and lengthy nature of the work. In the mid-1990s, the Department mandated funds be obligated in the year in which they were appropriated because of an upsurge in unobligated funds. The appropriation is limited and will not finance all departmental investigation and cleanup requirements. The Department therefore established a procedure for prioritizing and allocating these limited funds.

3. Policy

It is ARS policy to utilize HWC funds in accordance with departmental guidance governing the use of these special funds. Specifically, this appropriation is to be used for Resource Conservation and Recovery Act (RCRA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirements that entail preremedial activities, removal actions, or remedial actions consistent with the intent of the funds (please see Definition section.) Additionally, a project must cost a minimum of \$25,000 to qualify for funding.

Examples of requirements that qualify for the funds are site investigations, remedial investigations, feasibility studies, monitoring well installations, groundwater sampling, soil sampling, excavation of contamination, pump and treat systems, soil vapor extraction, phytotechnologies, etc. Examples of requirements that do not qualify for HWC funds include facility permitting, asbestos removal, routine disposal of wastes, and payment of fines and penalties.

If you are uncertain if a project will qualify for HWC funding, please contact the Facilities Division (FD), Safety, Health and Environmental Management Branch (SHEMB).

4. Responsibilities

The organizational unit (i.e., location, Business Service Center (BSC), FD) directly managing the HWC activities is responsible for ensuring that the approach used is the most efficient method of obtaining the needed services, and that the action meets all procurement and contracting requirements.

5. Authorities

- 42 United States Code, Section 6901, Resource Conservation and Recovery Act
- 42 United States Code, Section 9601, Comprehensive Environmental Response, Compensation, and Liability Act
- Office of Management and Budget Circular A-11, Preparation and Submission of Budget Estimates
- Executive Order 12088, Federal Compliance with Pollution Control Standards
- DM 5600-1, Environmental Pollution Prevention Control and Abatement Manual
- P&P 325.1-ARS, Funds Control at the Operating Level

6. Definitions

Preremedial activities. Activities necessary to assess the situation and to develop or support a removal or remedial action. They could include a preliminary assessment, risk assessment, or site inspection. Their underlying characteristic is that they directly move a specific site or location along a planned path to a “no further action” conclusion or a removal or remedial action. Record searches and environmental sampling/analysis are typical examples.

Removal Action. The cleanup or removal of oil or hazardous substances actually, or with potential to be, released into the environment. It generally entails an emergency response to actual or potential threats to public health, welfare, or the environment. Ancillary measures such as security fencing, temporary evacuation, etc., are also included.

Remedial Action. Measures necessary to prevent or minimize the release of hazardous substances so they do not affect public health, welfare, or the environment, now or in the future. They differ from removal actions primarily in their typically smaller immediate hazard, longer planning horizon, and greater focus on permanent solutions. Remedial actions may follow removal action at a site. For example, if leaking drums are discovered, the drums and heavily contaminated soil may be removed immediately to eliminate the source (i.e., removal action.) Cleanup of groundwater contamination at a later date would be considered the remedial action.

7. Procedures

Request for Funds

BSCs will coordinate location requests for HWC funding during the annual departmental budget request process. The process normally takes place in March/April at which time the BSCs work with the locations to revise their prior requests for the coming fiscal year that fall and submit new requests for the next fiscal year. For example, in March/April of FY 2012, the BSCs are requested to update their location's FY 2013 proposals and submit their new HWC requirements for FY 2014. For each valid HWC project, the BSCs will ensure the completion of a "Hazardous Materials Management Appropriations Funding Proposal" at Exhibit 1 and submit the form to FD, SHEMB, who will review and comment on the proposals prior to submitting them to the Department.

In addition to the departmental budget request, Areas must utilize the Annual Resource Management Plan (ARMP) for requesting HWC funding. Areas may submit new requirements or update existing project costs/information. A copy of the new or revised Hazardous Materials Management Appropriations Funding Proposal should be forwarded to SHEMB.

If a project is time critical, i.e., requires funding in the first quarter of the fiscal year, please advise SHEMB. They will ensure that the proposed HWC project is forwarded for consideration outside the ARMP process.

Departmental Approval

The Department will identify the highest priority CERCLA and RCRA cleanup projects and determine which projects will receive HWC funding in a given fiscal year. Approval is based on the availability of funds and the priority in relation to other competing projects. The Department will notify SHEMB of approved projects as well as the amount allocated. SHEMB in-turn will notify the National Capital Region Business Service Center (NCRBSC), the Financial Management Division (FMD) and the appropriate BSC.

Reimbursable Agreements

The Department will initiate reimbursable agreements with NCRBSC using Form AD-672, "Reimbursement or Advance of Funds Agreement," for each project to be funded that fiscal year. In the event of a Continuing Resolution, the Department will initiate reimbursable agreements as funding allows. NCRBSC will coordinate the processing and signature of the reimbursable agreements with the Extramural Agreements Division. Once an agreement has been signed, NCRBSC will provide a copy to SHEMB, FMD and the appropriate BSC.

It should be noted that HWC funds can only be utilized for the purpose(s) described in the reimbursable agreement (i.e., Service to be Performed element). Any work performed outside of this scope requires SHEMB approval and a modification to the agreement.

Obligating Funds

It is imperative that funds be obligated in the fiscal year they are received. Funding must be planned and managed to prevent carryover into the next fiscal year. Budget and Fiscal Officers and NCRBSC must coordinate processing the necessary documents with the National Finance Center to ensure that records are accurate.

If it becomes apparent that funds will not be obligated by the end of the fiscal year it should be immediately communicated to SHEMA. Likewise, obligations that are anticipated to occur late in the fiscal year (i.e., after September 1) should be communicated to SHEMA. Otherwise, HWC funds not obligated by September 1 may revert back to the Department.

Increase or Redirection of Funds

Actual cleanup costs often differ from cost estimates because of unknown subsurface conditions and other unforeseen site conditions. The BSCs will notify NCRBSC with a copy to SHEMA and FMD when actual costs differ from the amounts allocated through reimbursable agreements.

In cases where costs are lower than expected, NCRBSC will work with Extramural Agreements Division to amend the reimbursable agreement for the project by the appropriate amount to be returned to the Department for redistribution. In cases where costs are higher than expected, BSCs may request additional HWC funding through SHEMA. The Department evaluates such requests on a case-by-case basis. Requests may or may not be granted dependent on the amount requested, the reasons for the excess costs, and the availability of HWC funds.

Project Closeout

At project closeout, BSCs will notify NCRBSC with a copy to SHEMA and FMD of any funds which have been obligated but not expended under the reimbursable agreement for the completed project. NCRBSC will deobligate such funds promptly and notify the Department of the deobligations. The Department will process a reimbursable agreement amendment to reclaim the deobligated funds back into the HWC account.

Records and Reporting Requirements

Records of all project activities and project costs will be maintained by the accounts maintenance personnel at the location. Therefore, regardless of where the procurement takes place, the location or the BSCs, copies of the obligating documents must be forwarded to the location.

Donald B. Jones
Director
Facilities Division

Date

Exhibit 1 Hazardous Materials Management Appropriations Funding Proposal

1. AGENCY	2. AGENCY CONTACT INFORMATION			3. TODAY'S DATE	
	2a. NAME	2b. PHONE	2c. EMAIL		
4. PROJECT NAME				5. PROJECT ACTIVITY OR PHASE (e.g. Cleanup removal, Cleanup study, etc.)	
6. AGENCY PRIORITY	7. PROJECT LOCATION Clarification: (7c) If not located within a city boundary, provide the nearest residences and approximate distance to the site)			8. WATERSHED NAME	
	7a. STATE	7b. CITY	7c. NEAREST RESIDENCES/APPROX DIST TO SITE		
9. FUNDING Clarification: (9c) If this request is for a phase of an activity (e.g. phase #1 of a removal action) list the estimated future funding needed and additional phases required to complete the activity. (9d) If additional funds are expected from other sources list the estimated supplemental funds (e.g. agency supplemental funding, partner contributions, or other sources).				10. SCHEDULE List expected or planned dates for this phase	
9A. AMOUNT REQUESTED	9b. FY IN WHICH FUNDING IS NEEDED	9c. FUTURE NEEDS (applies to phased activities only)	9d. SUPPLEMENTAL FUNDS	10a. START DATE	10b. COMPLETE DATE
11. PROPOSED WORK					
11a. DESCRIBE PROPOSED WORK AND HOW THIS PROJECT WILL HELP RESOLVE THE RISKS DESCRIBED ON PAGE 2					
12. CONTRIBUTIONS/PARTNERS					
12a. NAME ANY CONTRIBUTORS OR PARTNERS AND DESCRIBE EXTENT OF CONTRIBUTIONS (Refer to Section 9d.)					

Exhibit 1

Hazardous Materials Management Appropriations Funding Proposal

PROJECT NAME	AGENCY	FY REQUEST	TODAY'S DATE
13. COMPLIANCE/ENFORCEMENT STATUS			
<p>Clarification: Before spending money to clean up a site or to perform a remedy selection analysis, USDA policy requires agencies to identify if there are any other parties that may have contributed to the contamination. The Office of General Counsel Pollution Control Team will assist agencies in determining whether responsible parties exist and if they are financially viable.</p>			
13a. DESCRIBE ANY EXISTING NOTICES OF VIOLATIONS, WARNING LETTERS, OR ENFORCEABLE AGREEMENTS.			
14. SURFACE WATER CONTAMINATION			
14a. DESCRIBE SURFACE WATER RISKS			
15. GROUNDWATER CONTAMINATION			
15a. DESCRIBE GROUNDWATER RISKS			
16. SOIL CONTAMINATION			
16a. DESCRIBE SOIL CONTAMINATION RISKS			
17. AIR QUALITY			
17a. DESCRIBE AIR QUALITY RISKS			