
State Water Resources Control Board

UST Cleanup Fund Program Update

http://www.waterboards.ca.gov/water_issues/programs/ustcf/
(as of July 16, 2012)

FISCAL YEAR 2012/13

FISCAL YEAR 2012/13 FUND BUDGET

Fiscal year (FY) 12/13 is the second year the UST Cleanup Fund is implementing the new business model adopted pursuant to the recommendations of the 2009 external audit and task force. The Fund's new business model includes: (1) placing all Priority A, B, and C claims on an annual budget; (2) programmatically budgeting for overall annual costs within the amount available each year from petroleum storage fee revenues; and (3) avoiding creating new carryover costs from year to year.

The UST Cleanup Fund budget for reimbursement of claims reflects the new business model and is summarized on the table below. The estimated funding available for Priority Class payments is being used to approximate the budget for reimbursement of claims. A table showing the budget follows this discussion.

The total projected funding for claim payments is approximately \$227 million for FY 12/13. Only approximately \$9 million have been budgeted for remaining "old costs", those costs incurred by active claims prior to July 1, 2011. Also, in anticipation of activating the remaining Priority B claims, about \$15 million have been budgeted for costs incurred prior to the claims becoming activation through Letters of Commitment (LOCs).

Of the \$227 million, about \$203 million have been budgeted for work performed during FY 12/13 for all Priority Classes. The amount budgeted for reimbursement of eligible costs incurred during FY 12/13 is significantly more than the amount that was available for FY 11/12. The amount is greater because most of the FY 11/12 revenues were budgeted for, and expended on, reimbursement of "old costs".

Priority C and D claims are being funded at the statutorily mandated 14 percent minimum limit. For FY 2012/13, 14 percent is approximately \$34 million. Therefore, of the \$203 million for costs incurred during FY 12/13, approximately \$169 million are budgeted for annual site budgets for Priority A, B, and C claims. Of the \$169 million, approximately \$102 million have been approved as initial annual site budgets. The

remainder of the \$169 million, about \$67 million, has been identified for budget changes for Priority A, B, and C claims.

**Table: Estimated FY 12/13 Funding Available for Priority Class Payments
(Approximate UST Cleanup Fund Budget for Reimbursement of Claims)**

| Cost Categories | Approximate Budget by Category (Million) | Approximate Amount Budgeted (as of 7/16/12) (Million) | Approximate Amount Available for Budget Changes (Million) |
|--|--|---|---|
| Previously Accrued Costs | | | |
| Priority A, B, C, D Old Costs (<7/1/11) | \$ 9 | N/A | N/A |
| New Priority B Old Costs (< LOC) | \$ 15 | N/A | N/A |
| SubTotal | \$ 24 | N/A | N/A |
| Annual Site Budgets: Priority A, B, C | | | |
| Priority A | Less than \$135 | \$ 2.0 | Less than \$62.7 |
| Priority B | Less than \$135 | \$ 70.3 | Less than \$62.7 |
| Priority C (14%) | \$ 34 | \$ 29.3 | \$ 4.7 |
| SubTotal | \$169 | \$101.6 | \$67.4 |
| Annual Budget: Priority D (14%) | \$ 34 | \$ 34.0 | \$ 0 |
| SubTotal | \$203 | \$135.6 | \$67.4 |
| Estimated Funding Available For Priority Class Payments TOTAL | \$227 | | |

FY 12/13 ANNUAL SITE BUDGETS

List of Annual Site Budgets: Claimants with Priority A, B, and C claims have been notified of the approved FY 12/13 annual site budgets. The most recently updated list of annual site budgets is posted on the UST Cleanup Fund web page and titled: "Site Budgets for FY 2012_13". A number of claims have been added since the original May 31, 2012 list was posted. In addition, the budget categories for several sites have been updated based on claimant feedback.

Remediation Start-Up Budgets: There were insufficient funds in FY 11/12 for remediation start up. However, in FY 12/13, those Priority A and B claims that are planning remediation start-up were allocated limited budgets with the understanding that additional funding would be needed. Budget change requests will need to include sufficient information to approve additional funding.

Priority C and D Claims Budgets: Priority C and D claims are being funded at the statutorily mandated 14 percent minimum limit. For FY 2012/13, 14 percent is approximately \$34 million. Nearly the entire 14 percent has been identified for Priority C claims leaving about \$5 million for budget change orders.

Use of Annual Site Budgets: Remember that annual site budgets are approved for work performed during a specified fiscal year. This means that the FY 12/13 Annual Site Budgets are approved only for work performed during FY 12/13. If claims do not use the identified funds, those funds cannot be identified for use by alternate claims unless the Fund receives a budget change request for a reduction in funds from those claimants.

BUDGET CHANGE REQUESTS

Budget change requests can be submitted to either increase or decrease the amount of the approved annual site budget. The budget request form has been revised from last year's form to accommodate both needs.

Requests for Increased Budget: The Fund anticipates that budget change requests will exceed the amount of money available for the FY12/13 Fund Budget. In order to clarify budget needs for work with reasonable and necessary costs, the budget change requests need to include a justification. For additional remediation work, budget change requests will need to be accompanied by specified remediation system information.

Requests for Decreased Budget: If claimants do not need all or any of the annual site budget identified for that site, those funds can only be identified for use for other claims if the Fund receives a budget change request for a reduction in funds. Unused annual site budgets that are not communicated to and re-assigned by the Fund result in an under-expended FY 12/13 Fund Budget. Unexpended funds cannot be used the following fiscal year, but must be formally requested for use a minimum of two fiscal years later due to the State budget process for re-appropriation to the Fund.

Timeframe for Action on Budget Change Requests: The Fund anticipates approving some budget change requests for FY 2012/13 in August 2012. Nearly all of the money identified for budget change orders should be assigned to claims by January 2013. No budget change requests for increased budgets will be approved after April 1, 2013.

Submittal of Budget Change Requests: The budget change request forms, including the new instructions regarding information needed to support requests related to remediation systems, will be posted to the web and sent via email to interested parties who have signed up for notifications on the State Water Board's website.

When the budget change request forms are available, the Fund strongly encourages claimants to submit budget change requests (including all justification documentation) as soon as possible. Budget change request forms should be available no later than July 25, 2012.

Source of Funding for Budget Change Orders: Annual site budgets for Priority A and B claims were approved with a reserve for funding budget change requests. The reserve anticipates requests for increased budgets for remediation system startups. In addition to that budgeted reserve, there are unquantified amounts that may become available as claims are identified that do not need their annual site budgets. Throughout the year the Fund is notified of claims that do not intend to expend the approved annual site budgets. These claims include those where (1) the claimant submits a request for a decreased budget; and (2) those where claims close and do not use the budgeted amount. Again, the sooner that claimants notify the Fund that a claim does not need the amount budgeted, the sooner that amount can be approved for a request for an increased budget and be available for another claim.

ACTIVATING CLAIMS FROM THE PRIORITY LIST

The Fund is currently issuing LOCs for Priority A and B claims, and School District claims in all priorities. Priority A and B claims are being activated because they are the highest priority and funds are available to reimburse their costs. School District claims are continuously activated to comply with statute which created a separate School District account. Some Priority D claims may be activated to comply with statute that requires Priority D claims be reimbursed 14 percent of the total amount available to reimburse all claims annually. The Fund does not anticipate activating Priority C claims in FY 12/13 because active Priority C claims are budgeted to be reimbursed the mandated 14 percent. These claims will remain on the Priority List and will be activated in order of rank when funding is available.

FAQ'S

(As of July 16, 2012)

FISCAL YEAR 2012/13

Q: Can I use any of the new FY 12/13 approved budget amounts towards the costs already spent pending from FY 11/12 budget?

A: No. FY 11/12 budgets were approved for costs incurred in FY 11/12. FY 12/13 budgets have been approved only for costs incurred in FY 12/13.

Q: Will the Fund be issuing any additional budget change approvals for FY 11/12 costs that were pending for being over budget?

A: No. With the beginning of FY12/13, no additional budget change requests for FY 11/12 costs will be approved.

Q: Will the Fund be allocating any revenues to FY 11/12 Budget Change Orders at the start of the new FY (July 1, 2012), and if so, how much?

A: No. FY 11/12 budgets were approved for costs incurred in FY 11/12. FY 12/13 budgets have been approved only for costs incurred in FY 12/13.

Q: When will budget change orders be approved?

A: Budget change orders will be approved starting in August 2012 to no later than April 1, 2013.

Q: Why was only part of the available Fund budget identified for annual site budgets?

A: Only part of the Fund budget for annual site budgets has been identified for claims because the other part will be identified for claims as remediation work phases progress. The available funding is greater than last year, which means that reasonable and necessary remediation operation and maintenance as well as remediation start-up costs can be funded for Priority A and B claims. The highest costs generally are incurred during these remediation work phases. In order to better contain costs the Fund will carefully review proposed remediation start-up plans, as well as operation and maintenance costs for cost-effectiveness and efficiency. Additional money has been set aside for change orders for all

phases of work at sites, and will be awarded as necessary based on change requests received.

Q: Why are annual site budgets for Priority C claims limited to the mandated 14 percent minimum?

A: The Fund recognizes the mandated priority system for reimbursing claims. In order to implement this requirement the Fund is budgeting for claims according to priority class. This means that available funds are identified for annual budgets for Priority A and B claims and for costs incurred prior to issuance of LOCs for Priority B claims being activated in FY 12/13. FY 12/13 funding is insufficient to reimburse Priority C and D claims more than the mandated 14 percent minimum.