

United States  
Environmental Protection  
Agency

Office of  
Solid Waste and  
Emergency Response

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<b>TITLE:</b>	State UST Program Grant Guidance
<b>DATE:</b>	May 5, 1993
<b>ORIGINATING OFFICE:</b>	OSWER

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MAY 4, 1993

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

**MEMORANDUM**

SUBJECT: STATE UST PROGRAM GRANT GUIDANCE

FROM: David W. Ziegele, Director  
Office of Underground Storage Tanks

TO: UST Regional Program Managers

Thank you for your input and comments on the draft UST Program Grant Guidance. Several editorial changes were made to the draft based on your comments. Attached is a copy of the final guidance, which is OSWER Directive 9630.9.

As stated in my transmittal memorandum of the draft guidance, this guidance will serve for all future UST grant awards in lieu of issuing grant guidance each fiscal year. However, if we amend the guidance in the future, it will be reissued (including all attachments) as an OSWER Directive with a new number. The changes to the guidance will be highlighted on the required forms that accompany the package and detailed in my transmittal memorandum.

If you have any questions or comments concerning the guidance, please contact Dana Tulis at 703 308-8891.

Attachments

cc: Regional Branch Chiefs  
OUST Management Team  
David Hamnett, OUST  
OUST Desk Officers

## **I. PURPOSE OF GRANT GUIDANCE**

This guidance provides the criteria and procedures for allocation of grant funds for State Underground Storage Tank (UST) program activities. Instead of sending out guidance every year, this guidance will serve for all future UST Grant awards, unless it is superseded by an amendment or another document. As a supplement to the grant regulations under 40 CFR Sections 31 and 35, this guidance is to be used in developing and reviewing grant applications, awarding grants, and monitoring grant activities.

Regional offices are responsible for negotiating grant agreements with States in accordance with national guidance adapted to individual State situations in order to stimulate and assist State program development (if needed) and implementation, monitor progress, and evaluate grant fund expenditures. In the interest of streamlining, the Regions are encouraged to award multi-year grants to the States by setting up two to three year performance periods and amending budget periods annually.

Additional implementation guidance may be found in: 1) OSWER Directive 9650.13 "Streamlined Implementation of UST Corrective Action Requirements," 2) "UST/LUST Program Draft Strategic Framework" (March 1993), 3) OSWER Directive 9610.5 "FY 1989-1990 Transition Strategy for the UST Program," and 4) OSWER Directive 9610.5-1 "Transition Tasks List."

## **II. PURPOSE OF STATE UST PROGRAM GRANTS**

The purpose of the UST grant program is to assist States in implementing effective State-run UST regulatory programs for the prevention, detection, and correction of leaking underground storage tanks containing petroleum and hazardous substances.

It should be noted that Congress intended that Federal grant funds in the UST program be used as 'seed' money to assist States with the development and implementation of State programs. Many States have already developed or are developing alternative or supplemental funding mechanisms; e.g., tank fees, gas taxes, to provide a consistent funding base for their prevention programs.

In addition to State program grants, EPA has and continues to develop a variety of implementation tools for use by States, and hosts an annual national forum for States to share information and experiences concerning their UST programs. EPA is also providing Leaking Underground Storage Tanks (LUST) Trust Fund monies to States to assist in the oversight and clean up of contamination caused by leaking petroleum tanks. States that have not yet applied for State Program Approval are expected to make reasonable progress toward submitting a completed application to EPA for approval of their UST prevention, corrective action, and financial responsibility programs under Section 9004 of RCRA. A State's success in receiving State Program Approval will be rewarded with funds from the LUST Trust Fund.

The solution to the problem of leaking USTs is for States to implement prevention programs and to streamline their cleanup programs which, over time, will result in a drastic reduction in the number of leaking USTs. The emphasis of EPA's long-term implementation strategy is to develop strong State and local programs. EPA focuses its resources and efforts on building and improving State programs while providing flexibility in approaches and striving for constant improvement. EPA will work in tandem with

States to improve performance, streamline procedures, and promote Total Quality Management in specific program areas such as enforcement, inspections, site assessments, and corrective actions.

### **III. NATIONAL PRIORITIES, GOALS, AND FUNDABLE TASKS**

#### **A. National Priorities**

EPA has identified four priority areas that are critical to successful implementation of the national UST program. These priority areas highlight the activities that States should conduct. The four priorities are: Corrective Action Streamlining, Leak Detection ' Compliance and Enforcement, State Program Approval, and 1998 Upgrading/ Replacement Compliance. This fourth priority is primarily a focus for OUST, rather than States, in FY 94. It is not anticipated that States which have deadlines in accordance with Federal regulations will be active in this fourth priority area in FY 94. However, OUST will engage in collecting data from States with earlier deadlines and in developing outreach materials for owners/operators in preparation for meeting the deadline. Some States may need to include tasks to contribute to or participate in these efforts. The goals and fundable tasks for each of the priority areas are discussed below.

#### **B. Goals**

##### **1) Corrective Action Streamlining**

To promote scientifically-sound, rapid, and cost-effective action at all UST release sites requiring corrective action through the use of streamlined processes, effective technologies, and improved cross-program coordination.

Note: OUST recognizes that accomplishment of the streamlining corrective action goal will be addressed primarily under the LUST Trust Fund cooperative agreements because of a greater level of resources available from the fund. While corrective action quality improvement is an eligible activity under an UST grant, it will not be addressed specifically in this guidance. Nevertheless, corrective action quality improvement activities are in concert with prevention program activities and will augment the growth and effectiveness of State UST prevention programs.

##### **2) Leak Detection Compliance and Enforcement**

To assure owners and operators routinely and correctly monitor all regulated tanks and piping for leaks in accordance with the regulations.

##### **3) State Program Approval**

To encourage and ensure that all State programs develop sufficient authorities and enforcement capabilities (to apply for approval from EPA) to operate in lieu of the Federal program.

##### **4) Preparation for the 1998 Deadline**

To ensure owners and operators will upgrade or replace their tanks to meet new tank standards by the 1998 deadline.

## **C. Fundable Tasks**

EPA recognizes that completion of many of these tasks is a process requiring a multi-year effort. For each task, specific outputs for individual States will be determined by negotiations between the States and the EPA Regional Office, taking into account the nature and extent of program needs in that State and the national priorities. Required activities are only those actually negotiated between an EPA Region and State. The following tasks are eligible uses of UST grant funds.

### **1) Corrective Action Streamlining**

- develop adequate statutory and regulatory authorities
- establish cleanup policies and write clear guidance for owners and operators
- streamline corrective action procedures
- establish mechanism to determine high and low-risk sites
- maintain data management base for notification program and STARS reporting
- conduct outreach (e.g., training/technical assistance) for State and local personnel, consultants, owners and operators
- conduct formal and informal corrective action enforcement
- investigate mechanisms to fund State programs
- track the solvency of State funds (refer to document "Monitoring the Financial Soundness of Approved State Assurance Funds")
- identify need for streamlining and opportunities for non-traditional technologies

### **2) Leak Detection Compliance and Enforcement**

- develop adequate authorities and procedures
- identify, investigate and enforce State/federal regulations
- establish a well-trained field presence
- develop and use alternative compliance mechanisms (e.g., field citations)
- establish and maintain leak detection compliance tracking system
- develop and use an enforcement targeting scheme
- conduct effective outreach (e.g., training and technical assistance) to local agencies and owners and operators
- streamline enforcement procedures

### **3) State Program Approval**

- implement transition tasks (for States that have not yet received State program approval)
- develop/revise State authorities and regulations to meet federal standards
- establish enforcement capabilities and procedures
- develop draft State Program Approval application
- complete final State Program Approval application

### **4) 1998 Upgrading/Replacement Compliance**

- develop adequate authorities and regulations

- design programs to implement compliance and enforcement for 1998 deadline
- conduct outreach (e.g., technical guidance) to owners and operators, regulators, and vendors
- establish a mechanism to track compliance with the upgrading requirements
- investigate State financial assistance and licensing programs for upgrading and replacement

**Other Tasks**

The national program supports efforts on the State level to integrate the State groundwater protection strategy with UST prevention program activities. The primary goal of this plan is to avoid duplication of effort and identify common information needs.

**IV. ALLOCATION OF STATE GRANT FUNDS**

The total State grant allocations are expected to remain at \$9 million a year. If this changes in this year or in future years, a memorandum regarding Regional UST grant allocations will be sent to the Regional Program Managers.

The grant funds will be allocated to the Regions at the rate of \$162.5 thousand per State (plus Puerto Rico and the District of Columbia) and \$137.5 thousand for the Virgin Islands and Pacific Trust Territories. Regions have the ability to move funds among their States and territories.

**Regional Allotments for State UST Program Grants**

Region 1	\$ 975k
Region 2	625k
Region 3	975k
Region 4	1300k
Region 5	975k
Region 6	812.5k
Region 7	650k
Region 8	975k
Region 9	1062.5k
Region 10	650k
<b>Total</b>	<b>\$9000k</b>

## **V. STATE MATCH**

State UST program grants will continue to require a minimum of 25% grant match from the States. Of course, the State match may include in-kind contributions. States are encouraged to provide information on the size of their commitment of total resources to the program, even when this exceeds 25%.

## **VI. GRANT ADMINISTRATION**

### **Grant Application**

The State or Region may initiate the grant process. A State may submit a draft grant application to the Region, or the Region may provide a draft work plan to its States for consideration.

### **Grant Negotiations**

Specific activities funded under each State's grant work plan will be determined through negotiations with the Region. In accordance with the Agency's policy on performance-based grants, each State will be expected to make specific task and resource commitments as part of its grant agreement. Commitments should reflect the priorities stated in this guidance.

Designated State agencies may enter into intergovernmental agreements with substate or local government agencies and thereby provide funds for the performance of specific tasks (40 CFR Section 31.36). The designated State agency retains the ultimate responsibility for ensuring that such funds are expended properly, in accordance with Federal requirements. Substate agencies that intend to contract out for services must comply with applicable procurement requirements (40 CFR Part 31).

### **Grant Awards**

All available grant funds should be obligated to the State in the fiscal year in which the grant is awarded. States should make every effort to use grant monies during the allotted period. Otherwise, carryover funds may be awarded at the Regional Administrator's discretion, but only for the purposes specified in this guidance.

UST program grant funds may be used only for eligible activities, e.g., those which are: (1) necessary to develop and implement an approvable State UST program, and (2) activities which are allowable for funding (see OMB circular A-87 and CFR 31.22).

When a State does not seek program approval or make sufficient progress toward State Program Approval, the Regional Administrator may use funds not awarded or committed to that State to supplement awards to other States or to support a Federal program conducted in the absence of an acceptable State program.



## Suggested Grant Award Schedule

(may vary by Region)

April-June	Develop draft grant applications (Regions and States)
July	Regions begin grant negotiations with States
August	States submit final grant applications
By Sept. 30	Regions have processed grant up to point of award
October	Regions begin to award grants

## Grant Oversight

In accordance with Agency policy, the Region must conduct at least one on-site review. Regions should plan a mid-year and/or end-of-year review with each State, and forward to OUST/HQ a copy of each State's performance evaluation final report. Regions may arrange with States for more frequent reviews.

The comprehensive program review for each State should discuss progress toward completion of funded tasks. Reviews should identify:

1. areas of success including approaches that could be shared with other States;
2. areas for improvement in the UST program;
3. areas where EPA assistance could be helpful, including a plan for action;
4. areas where EPA or other Federal agencies are a barrier or create problems for the State program, creating a need for EPA to address such areas.

Copies of all State program evaluation reports and end-of-year grant reports should be sent to Dana Tulis, Chief, Operations Branch, OUST, within 30 days of completion of the report.

## State Reporting Requirements and Schedule

States must report required program activities to the Regions (see attachments). In addition, all states are to report in a timely and accurate fashion the data needed for quarterly activities reports and the STARS reports for the EPA UST program. Regions will need to relay this data to OUST/HQ within 10 working days of the end of each fiscal quarter. Regions and States must develop reporting schedules that allow them to meet these deadlines. Regions shall request that States add annual data concerning total number of petroleum tanks and number of hazardous substance tanks (existing and closed) to the quarterly activities report. States only need to report the information concerning the number of tanks (G-4) once a year on the second quarter report.

OUST is requesting that Regions validate that States are updating their UST database information prior to submittal of STARS data, including the total number of federally regulated tanks and the number of hazardous substance USTs. Please refer to February 19, 1993. memorandum: "Follow-up to the IG Audit on the National Tank Inventory" for further details.

## QUARTERLY ACTIVITIES REPORT

Fiscal Quarter:    Region:    State:

OUST	STARS	DEFINITION	LAST QUARTER CUMULATIVE	ACTIONS THIS QUARTER	CORRECTIONS TO PREVIOUS DATA	CUMULATIVE TOTAL
G-1	UST-1A	Has State submitted a complete application for State Program Approval?				
G-2	UST-1B	Does the State have an Authorized Program?				
G-4		A. Existing Registered Petroleum Tanks				
G-4		B. Number of Closed Petroleum Tanks (in place and removed)				
G-4		C. Total Number of Petroleum Tanks (A+B)				
G-4		D. Number of Hazardous Substance Tanks (existing and closed)				
TF-1	UST-3	Reported Confirmed Releases				
TF-2		Emergency Responses Taken				
TF-3	UST-2A1	LUST Cleanups Initiated: petroleum (RP lead)				
TF-3	UST-2A2	LUST Cleanups Initiated: petroleum (State lead with TF money)				
TF-3	UST-2A3	LUST Cleanups Initiated: petroleum (State lead with State money)				
TF-5	UST-2B1	LUST Cleanups completed: petroleum (RP lead)				
TF-5	UST-2B2	LUST Cleanups completed: petroleum (State lead with TF money)				
TF-5	UST-2B3	LUST Cleanups completed: petroleum (State lead with State money)				
TF-6		Sites with enforcement actions				

## LEAK DETECTION COMPLIANCE AND ENFORCEMENT REPORTING

Fiscal Quarter:    Region:    State:

<b>MEASURE</b>	<b>Cumulative Last Quarter</b>	<b>Actions this Quarter</b>	<b>Corrections to last Quarter</b>	<b>Cumulative this Quarter</b>
LD-1 Has the State attempted to provide leak detection compliance information to most facilities?				
LD-2A How many facilities were required to submit verification of leak detection compliance (e.g., self certification on permit applications, submission of evidence of compliance such as tank/piping test results, tank tagging, distributor activities, etc.)?				
LD-2B Of the facilities counted in the measure LD-2A, how many were in significant compliance as determined by the State or EPA?				
LD-3A How many leak detection compliance inspections has the State or EPA made?				
LD-3B How many inspected facilities were in significant compliance with Federal and State requirements?				
LD-4 How many facilities received informal enforcement actions (e.g., warning letters, show cause meetings, etc.).				
LD-5 How many formal enforcement actions has the State or EPA taken against non-complying facilities?				

## Exception Site Report

Please list cumulative activity and corrections to previous quarters' information for any site where more than \$100,000 of LUST Trust Fund Money is planned to be spent.

Fiscal Quarter:    Region:    State:

Site Name or Description	When was expenditure planned?	Amount Planned	Amount Obligated	Amount Outlaid	Judgments/Settlements	Cost Recovered

For all LUST Trust Fund sites, give total dollar amount of all judgments and settlements:

For all LUST Trust Fund sites, give total costs recovered from all judgments and settlements: