



DIRECTIVE NUMBER: 9630.1

TITLE: UST State Grant Guidance '86

APPROVAL DATE: October 1986

EFFECTIVE DATE: October 1986

ORIGINATING OFFICE: OUST

FINAL

DRAFT

STATUS:

REFERENCE (other documents):

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United States Environmental Protection Agency
Washington, DC 20460

OSWER Directive Initiation Request

Interim Directive Number
9630.1

Originator Information

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Lead Office <input type="checkbox"/> OERR <input type="checkbox"/> OSW <input checked="" type="checkbox"/> OUST <input type="checkbox"/> OWPE <input type="checkbox"/> AA-OSWER	Approved for Review	
Signature of Office Director <i>Ronald B. ...</i>		Date 4/8/86

Title

FY '86 State LUST Grant Guidance

Summary of Directive

The Guidance specifies eligibility to receive UST grant funds. In accordance with grant regulations, a minimum 5% State match is required. UST grants are performance-based grants, similar to the RCRA grants. FY '86 State UST grant funds were distributed to the Regions according to the grant allocation mechanism described fully in the Guidance. Each Region will receive a "base" allotment of \$100,000 per State to be used by the States for the high priority tasks identified in the Guidance. In addition to the "base" allotment, each Region will receive a second, discretionary allotment of \$25,000 per State.

Type of Directive (Manual, Policy Directive, Announcement, etc.) Grant Guidance	Status <input type="checkbox"/> Draft <input checked="" type="checkbox"/> Final <input type="checkbox"/> New <input type="checkbox"/> Revision
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Does this Directive Supersede Previous Directive(s)? Yes No Does It Supplement Previous Directive(s)? Yes No

If "Yes" to Either Question, What Directive (number, title)

Review Plan

<input type="checkbox"/> AA-OSWER	<input checked="" type="checkbox"/> OUST	<input type="checkbox"/> OECM	<input type="checkbox"/> Other (Specify)
<input type="checkbox"/> OERR	<input type="checkbox"/> OWPE	<input type="checkbox"/> OGC	
<input type="checkbox"/> OSW	<input type="checkbox"/> Regions	<input type="checkbox"/> OPPE	

This Request Meets OSWER Directives System Format

Signature of Lead Office Directives Officer <i>Helga B. Butler</i>	Date Apr. 7, 86
Signature of OSWER Directives Officer	Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 WASHINGTON, D.C. 20460

JUN 18 1985

OFFICE OF
 SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: FY'86 State LUST Grant Guidance

FROM: *for* Jack W. McGraw *Jack W. McGraw*
 Acting Assistant Administrator

TO: Regional Administrators
 Regions I-X

Attached is the FY'86 State LUST Grant Guidance. The Grant Guidance Workgroup met several times during the last six months to develop this document. Staff from seven EPA Headquarters' offices, the Association of State and Territorial Solid Waste Management Officials, 11 States and seven EPA Regions participated in the final Workgroup meeting. At that meeting, the States and Regions agreed with the priorities of the Guidance and the grant allocation mechanism. Highlights of the Guidance are discussed below.

Among other things, the Guidance specifies that in order for a State to be eligible to receive LUST grant funds, the Governor is to have designated an agency to receive LUST notifications (as mandated by §9002 of the 1984 Amendments). In accordance with grant regulations, a minimum 5% State match is required. LUST grants are to be performance-based grants, similar to the RCRA grants. FY'86 State LUST grant funds will be distributed to the Regions according to the grant allocation mechanism described fully in the Guidance. Each Region will receive a "base" allotment of \$100,000 per State to be used by the States for the high priority tasks identified in the Guidance. In addition to the "base" allotment, each Region will receive a second, discretionary allotment of \$25,000 per State. This discretionary allotment may be used to: (1) contribute further to the high priority tasks, (2) support Regional LUST activities and/or support contracts of benefit to the States, and (3) fund lesser priority tasks.

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To facilitate timely negotiation and award of grant funds to the States, I recommend that you take an active role in contacting your States and initiating the grant process for the FY'86 State LUST grants.

Attachments

cc: OSWER Office Directors
Harvey Pippin (GAD/OERM)
LUST Coordinators, Regions I-X
Designated State LUST Notification Agencies
State LUST Grant Guidance Workgroup

FY'86 State LUST Grant Guidance

I. INTRODUCTION

On November 8, 1984 the President signed into law the Hazardous & Solid Waste Amendments of 1984 (P.L. 98-616). The Amendments establish a program under a new Subtitle I of RCRA for regulation of leaking underground storage tanks (LUST). Subtitle I provides for the development and implementation of a comprehensive regulatory program for underground storage tanks that contain "regulated substances." Underground storage tanks include any tank with 10% of the volume below ground, including volume in attached piping. "Regulated substances" include any substances defined as "hazardous substances" under Superfund (CERCLA §101(14)) (except substances regulated as hazardous wastes under RCRA Subtitle C) and all liquid petroleum products (including crude oil).

This program is not part of the Subtitle C hazardous waste program for which States can receive authorization under section 3006 of RCRA or for which State financial assistance is available under section 3011 of RCRA. The LUST program is entirely separate from the Subtitle C hazardous waste program; the definition of "regulated substances" explicitly excludes Subtitle C hazardous waste.

Section 9004 establishes the authority for a State LUST delegation program and section 2007(f)(2) authorizes appropriation of funds for State grants. For FY'86, the President's Budget Request to Congress includes \$7 million in State grant funds for the LUST program.

II. STATE LUST GRANTSAuthority

The statutory authority (RCRA §2007(f)(2)) for this grant program is not specific in directing the manner in which funds are to be allocated among States. The Act simply requires that the grants be "... for purposes of assisting States in development and implementation of approved State underground storage, release, detection, prevention and correction programs under Subtitle I."

Grant Regulations and Guidance

For FY'86 we intend to rely on the existing grant regulations of 40 CFR Parts 30 and 35, Subpart A. These regulations require a minimum grant match from the States of 5%. During FY'86 we will decide whether it is necessary or desirable to develop specific Subtitle I grant regulations. Also during FY'86 we intend to develop a multi-year funding strategy that would consider requiring

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funded States to: (1) gradually increase the match over several fiscal years; and (2) investigate alternative mechanisms, in lieu of the Federal grant, to fund their programs.

This guidance is to provide the criteria and procedures for allocation of grant funds for State LUST program activities in FY'86. As a supplement to the grant regulations, the guidance is to be used in developing and reviewing grant applications, awarding grants and monitoring grant activities. The purpose of the grant funds is to assist States in developing and implementing an approvable State LUST program.

Specific activities funded under each State's annual grant work program will be negotiated individually by the Regional Offices. Regions should begin working with their States in developing draft grant applications in July so that final applications may be submitted in August. This will give the Regions time to review and approve them so that timely grant awards can be made. Each State will be expected to make specific task commitments as part of its grant agreement. Commitments should reflect the task priorities stated in this guidance. In addition, for each major task funded, the grant agreement must identify the resources (dollars and FTE) associated with that task. Grants are to be performance-based as in the RCRA State authorization program with quarterly work commitments clearly tied to resources. All available grant funds should be obligated to the States in FY'86. States should expend all funds in FY'86. Any remaining FY'86 grant funds not obligated by the Regions in FY'87 will be reprogrammed or returned to the Treasury.

The grant funds appropriated for FY'86 under section 2007(f)(2) may only be used for LUST grant eligible activities; i.e., those activities which are: (1) necessary to develop and implement an approvable State LUST program and (2) allowable for funding. (See OMB Circular A-87 and 40 CFR 30.410.) Where States are not seeking program approval, the Administrator or Regional Administrator may use funds not awarded or committed to an applicant to supplement awards to other applicants or to support a Federal program required in the absence of an acceptable State program. Funds may not be diverted from Subtitle C to support Subtitle I activities or vice versa.

State Eligibility

Section 9002(b)(1) requires the Governor of each State to designate an appropriate State agency or department or local agencies or departments to receive notifications submitted pursuant to section 9002. As a matter of policy, only State agencies that have been designated by their Governors to receive LUST notifications will be eligible to receive a LUST grant in FY'86. Federal grant funds may not pass through the designated agency to substate or local government offices.

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Allotment Mechanism

The President's Budget Request to Congress for FY'86 includes \$7 million in State grant funds for the LUST program. To avoid penalizing States where LUST programs are further developed, while offering incentive to States not as advanced in their program development, grant funds will be divided into two allotments. Each Region will receive a "base" allotment (i.e., \$100k/State) to be used first for implementation of high priority tasks. (See Fundable Tasks 1-5 below.) In addition, each Region will receive a second allotment (i.e., \$25k/ State). At its discretion the Region will use this second allotment to support the lesser priority tasks. Note that neither allotment represents any kind of State entitlement; Regions are not obliged to award a grant to every State or a particular amount to any State.

After completion of all high priority tasks in each State, remaining funds from the Region's "base" allotment will go into the Region's discretionary allotment. Regional discretionary funds may be used by the Region to contribute to any fundable activity for any State or used for Regional LUST activities to benefit the States. Regional discretionary funds may be used for funding contract activity that supports the LUST program where the Region requests reprogramming by the Comptroller. All funds should be obligated by the Regions in FY'86.

Regional FY'86 State LUST Grant Allotments

<u>Region</u>	<u>Base</u>	<u>Discretionary</u>	<u>Total</u>
1	\$600k	\$150k	\$ 750k
2	400k	100k	500k
3	600k	150k	750k
4	800k	200k	1,000k
5	600k	150k	750k
6	500k	125k	625k
7	400k	100k	500k
8	600k	150k	750k
9	700k	175k	875k
10	400k	100k	500k
Total	\$5,600k	\$1,400k	\$7,000k

Fundable Tasks

This section discusses fundable tasks for FY'86 State LUST grants. Tasks are prioritized. States must undertake and work toward the completion of at least the first task in order to be eligible for FY'86 funding under Section 2007. After the first five tasks are completed or planned for, any (or all) other tasks may be undertaken. States need not undertake all of the

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first five tasks in FY '86. Completion of all of the first five tasks will not disqualify States from funding for other tasks. Appropriate outputs for individual States will be determined by negotiations between State and Regional Office staff, considering the nature and extent of the program the State wants to establish and the needs within the State. These State/Regional negotiations should begin as soon as possible so the grants may be awarded in October 1985.

Program Task Priorities

- Task 1: Process LUST notifications. Develop an automated or manual notification information data management and analysis system. [Headquarters is investigating development of model software with a core program to retrieve aggregate information for data requested on the Federal form. This program would be made available to the States.] Process notification forms into the system. Provide contractor support for notifiers' assistance. Print and distribute notification forms. (Printing and distribution costs should not exceed 30% of the State grant allocation.)
- Task 2: Develop statutory and regulatory authority for State LUST program. Begin State LUST program organizational and institutional initiatives and develop necessary State and local agency coordination to carry out the program. Where statutory authority exists it should be submitted to the Region (LUST coordinator) for review. States may begin development of their regulations as EPA develops its regulations. Where appropriate, States may begin drafting their applications for EPA approval of State LUST program.
- Task 3: Promote compliance with Federal Interim Prohibition through mechanisms such as: (1) conducting reviews of local government construction permits, (2) developing memoranda of understanding with the Fire Marshal's offices to monitor underground tank installations, (3) implementing a field inspection program, and (4) certifying tank installations. Assist EPA in implementing Federal program in absence of approved State LUST program; e.g., enforce interim prohibition.
- Task 4: Investigate/develop alternative State funding mechanism such as user charges or State taxes.
- Task 5: Promote compliance by disseminating regulatory information to affected parties and the general public and providing technical assistance to LUST notifiers.
- Task 6: Develop/initiate program for certification of tank installers.

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Task 7: Secure technical assistance and training for State personnel for LUST program implementation; e.g., training for State personnel in inventory control techniques, tank inspections, groundwater monitoring, tank closure, and corrective action techniques.

Task 8: Other tasks may be funded where the above (1-7) have been adequately addressed.

III. FEDERAL-STATE RELATIONSHIP (Grant Award/Grant Administration)

States or Regional Offices may initiate the grant process. States may submit draft grant applications to the Regions or the Regions can provide draft work plans to their States for consideration. Headquarters will, as a courtesy to the Region, review these when requested. As soon as executed, a copy of each grant agreement and application (including work program) should be sent to Truett V. DeGeare, Chief, State Programs Branch, (WH-563-B), Office of Solid Waste, Washington, D.C. 20460.

In accordance with grant regulations, the Region must hold at least one on-site review during the year. We recommend two be scheduled. Therefore, Regions should plan a mid-year and/or end-of-year review with the States. An end-of-year review may be conducted or combined with the review of the FY'87 grant application. Regions may arrange for more frequent reviews.

The comprehensive program review should be held at mid-year for each State and should examine progress towards completion of fundable tasks. Regions should also specify program follow-up procedures whereby States respond, on a quarterly timetable, to the Region's findings. Reviews should identify: (1) weaknesses in the State's program; (2) areas where the Region may help the State; (3) approaches that could be shared with other States, and (4) suggested improvements in the Federal LUST program. Copies of all program review reports for FY'86 should be submitted to Truett V. DeGeare, Chief, State Programs Branch, (WH-563-B), Office of Solid Waste, Washington, D.C. 20460, within 30 days of completion of the report.

Reporting Requirements

Headquarters is currently considering requesting aggregate data from tank notifications. Examples of aggregate numbers that might be requested include: total tanks in use (petroleum and hazardous substances), total tanks out of use since 1974, total steel tanks, total fiberglass tanks, etc. This data may be used as a basis for a revised FY'87 or FY'88 allocation mechanism. We will provide more information on this in later guidance. No other reporting is contemplated as yet.

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Future Funding

Development of the FY'87 Guidance will take into account data obtained from the notification process. It is likely that, in FY'87, grant funds will be increased and that there will be no significant increase in State grant match requirement. We will continue to pursue the development of a multi-year funding strategy, including the investigation of Federal/State roles at various funding levels and other State support (e.g., partial funding, peer matching and loan of personnel).