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**TITLE:** Final FY 1988 State UST Grant Guidance

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**ORIGINATING OFFICE:** Office of Underground Storage  
Tanks (OUST)

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☐ **DRAFT**

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<b>OSWER Directive Initiation Request</b>					
2. Originator Information					
Name of Contact Person Ellie McCann		Mail Code WH 562A	Office OUST		Telephone Number 382-7601
3. Title Final FY 1988 States UST Grant Guidance					
4. Summary of Directive (Include brief statement of purpose)  See Attachment					
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This Request Meets OSWER Directives System Format					
8. Signature of Lead Office Directives Coordinator Betty Arnold, Managment Analyst				Date	
9. Name and Title of Approving Official 				Date 4/1/87	

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**DIRECTIVE                DIRECTIVE                I**

OSWER DIRECTIVE INITIATION REQUEST

Summary of Directive

This guidance provides the total anticipated grant amount for state UST program activities in FY 88, the criteria and procedures for allocation to the Regions, and guidance to assist the Regions in reviewing grant applications, awarding grants, and monitoring grant activities.

The FY 88 state UST grant guidance priorities are: 1) state program development, 2) state program approval application, and 3) compliance monitoring and enforcement.



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

APR 1 1987

OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

OSWER DIR. 9630.3

MEMORANDUM

SUBJECT: FY 88 State UST Grant Guidance  
FROM: J. Winston Porter  
Assistant Administrator  
TO: Regional Administrators  
Regions I - X

This memorandum transmits the FY 88 State UST Grant Guidance. It provides the total anticipated amount available for UST state program grant activities in FY 88, the criteria and procedures for allocation to the Regions, and guidance to assist the Regions in reviewing grant applications, awarding grants, and monitoring grant activities.

The only new information in this guidance is the grant amount and allocation scheme for FY 88. As it turns out, the total grant amount for EPA is the same as last year (i.e., \$7 million), and the allocation for each region is also the same as last year. The remaining text consists of a reiteration of the priorities, measures, and targets contained in the FY 88 Agency Operating Guidance, plus a reiteration of the discussion about grants administration that was in last year's grant guidance.

Attachment

cc: Waste Management Division Directors, Regions I-III, V-X  
Water Management Division Director, Region IV  
Regional UST Coordinators  
OSWER Office Directors  
Harvey Pippin

FY 88 STATE UST GRANT GUIDANCEI. PURPOSE OF GRANT GUIDANCE

This guidance provides the criteria and procedures for allocation of grant funds for state underground storage tank (UST) program activities in FY 1988. As a supplement to the grant regulations under 40 CFR Sections 30-45, the 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 a manner to ensure relevance of national guidance to individual state situations, progress in state program development, and accountability for grant fund expenditures.

Additional implementation guidance may be found in "The Interim Prohibition: Guidance for Design and Installation of Underground Storage Tanks" (EPA, August 1985), and in the "FY 1988 Agency Operating Guidance" (EPA, March 1987). Additional procedural guidance may be found in the "Policy on Performance-Based Assistance" (EPA, May 1985).

II. PURPOSE OF STATE UST PROGRAM GRANTS

The UST grant program is for the purpose of assisting states in developing and implementing effective state-run UST regulatory programs for the prevention, detection, and correction of leaking underground tanks containing petroleum and chemical 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 development of state programs. There are no plans for substantial long-term federal funding of state-run programs, and states are expected to develop their own funding mechanisms.

In addition to state program grants, EPA is developing a variety of implementation tools for use by States, and providing a forum for States to share information and experience concerning UST programs. EPA is also providing LUST Trust Fund monies to States to assist in cleaning up leaking tanks. After the Federal regulations become effective in June 1988, however, access to the LUST Trust Fund will become more limited for those States that are making little progress in developing regulatory programs for the prevention of leaking tanks.

III. FY 88 NATIONAL PRIORITIES AND FUNDABLE TASKS

The following are fundable tasks for FY 88 grants, listed in priority order. As discussed in the FY 1988 Agency Operating

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Guidance, the first three tasks are national priorities for this year's state grants.

For each task, specific outputs for individual states must be determined by negotiations between the state and the EPA regional office, taking into account the nature and extent of program needs in that state and the national priorities.

Highest Priority Tasks:

- Task 1: STATE PROGRAM DEVELOPMENT. Develop/revise state authorities and requirements for state UST program in order to meet federal standards. Investigate/develop mechanisms to fund the state program. Develop state authorities and procedures for an adequate compliance monitoring and enforcement program, and for an on-going tank notification program. (Work on developing cooperative agreements for the LUST Trust Fund is a fundable task under the State Program Grant.)
- Task 2: PROGRAM APPROVAL APPLICATION. Develop draft or final application for state program approval, and submit to the EPA Regional Office.
- Task 3: COMPLIANCE MONITORING AND ENFORCEMENT. Assist EPA to identify, investigate, and resolve violations of the Interim Prohibition requirements and the new federal regulations.

Other Fundable Tasks:

- Task 4: VOLUNTARY COMPLIANCE. Promote voluntary compliance with federal requirements by disseminating regulatory and technical information to local governments and the regulated community.
- Task 5: TECHNICAL ASSISTANCE AND TRAINING. Secure technical assistance and training for state and local personnel for UST program implementation.
- Task 6: STATE PROGRAM IMPLEMENTATION. Operate and enforce an existing state UST program. This task may be funded only after the above (1-5) tasks have been adequately addressed.

IV. ALLOCATION OF STATE GRANT FUNDS

We expect the total FY 88 state grant allocation to be \$7 million.

As in the past two years, the grant funds will be allocated to the regions at the rate of \$125k/state. The objective for this year is to maintain a minimum funding level for all states,

in order to keep the momentum going in the development of state programs. Regions have the ability to move funds among states. However, Regions should notify OUST of States that have lost 10% or more compared to last year's grant.

Regional Allotments for FY 88 State UST Grants

Region	1	\$ 750k
"	2	500k
"	3	750k
"	4	1000k
"	5	750k
"	6	625k
"	7	500k
"	8	750k
"	9	875k
"	10	<u>500k</u>

Total                   \$7,000k

V. STATE MATCH

FY 1988 State program grants will require a minimum 25% grant match from the States. Of course, the State match can include in-kind contributions.

VI. GRANT ADMINISTRATION

Grant Application

The state or region may initiate the grant process. A state may submit draft grant applications to the region, or the region can provide a draft work plan to its states for consideration.

When requested by a region, OUST staff is available to review draft grant applications.

Grant Negotiations

Specific activities funded under each state's grant work program will be negotiated by the region. In accordance with the Agency's policy on performance-based grants, each state will be expected to make specific task commitments as part of its grant agreement. Commitments should reflect the priorities stated in this guidance. In addition, for each major task funded, the grant agreement must identify the resources (dollars and FTEs) associated with that task, together with quarterly work commitments.

For the first time in FY 88, regions and states must now negotiate numerical targets for the measures contained in EPA's Strategic Planning and Management System. (See attachment for FY 88 SPMS measures.)

Designated state agencies may enter into intergovernmental agreements with substate or local government agencies to provide funds for the performance of specified tasks (40 CFR Section 33.260). The designated state agency retains the ultimate responsibility for ensuring that such funds are properly expended in accordance with federal requirements. Substate agencies that intend to contract out for service must comply with applicable procurement requirements (40 CFR Part 33).

#### Grant Awards

All available grant funds should be obligated to the states in FY 88. FY 87 carryover funds will be awarded at the Regional Administrator's discretion for high priority UST activities.

UST program grant funds may only be used for eligible activities, i.e., those which are: (1) necessary to develop and implement an approvable state UST program, and (2) allowable for funding (see OMB circular A-87 and 40 CFR 30.410).

Where states are not seeking program approval, the Regional Administrator may use funds not awarded or committed to a state 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 I to support Subtitle C activities, nor vice versa.

As soon as executed, a copy of each grant agreement and application (including work program) should be sent to Ellie McCann, State Programs Manager, OUST.

#### Grant Award Schedule for FY88

April - June	Develop draft FY 88 grant applications (Region or State).
July	Region begins grant negotiations with states.
August	States submit final grant applications.
By Sept. 30	Region has processed grant up to point of award.
October	Region begins 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 the States, and forward to OUST 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 fundable tasks. Reviews should identify:

1. approaches that could be shared with other states;
2. areas where the region needs to assist the state;
3. suggested improvements in the federal UST program; and
4. weaknesses in the state's program.

Regions should also specify program follow-up procedures.

Copies of all State program evaluation reports and end-of-year grant reports for FY 88 should be sent to Ellie McCann, State Programs Manager, OUST, within 30 days of completion of the report.

#### State Reporting Requirements

Our program goal for FY 87 was for all states to have operational notification data management systems in place by September 30, 1987. A State is presumed to have an operational notification data management system if it can answer all of the following questions based on notification data within 15 working days of an EPA request:

1. # tank notifications received.
  - type, size, use, age and location of these tanks.
2. For tanks taken out of operation after 1/1/74:
  - type, size, age, and location of tank;
  - type and quantity of tank contents;
  - date taken out of operation.
3. For tanks brought into use after 5/8/85:
  - type, size, use, age and location;
  - # tanks in compliance with Interim Prohibition.

All states must also report the data needed for regional reporting on the SPMS measures for the UST program. States must also report on their progress toward numerical targets for these measures. (See Attachment for FY 88 SPMS measures.) Since regions must relay this data to OUST by Day 9 after the end of the federal fiscal quarter, states must report the data to the region by the last day of each quarter. Dates for states to report their best available data are therefore: December 31, March 31, June 30, and October 7. The purpose of this exercise is to report the best available data by the specified date. Any unreported work from the last few days of one quarter may be reported as part of the following quarter's work. An extra few days are allowed at the end of the fourth quarter to capture all real-time data for the fiscal year.

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSEProgram: Underground Storage Tanks

OBJECTIVE	MEASURE	SPMS CODE	FREQUENCY
Support development of, and review and decide on, UST state program applications, in order to both encourage state-run programs and ensure adequate national consistency.	<u>State Program Approval (UST-1)</u>  Report on the following by State:  States implementing a comprehensive State UST program prior to application for program approval.  States submitting draft applications and receiving review and comment from the Region.* - For partial program, i.e., either petroleum or chemical - For complete program, i.e., both petroleum and chemical	UST-1(a)   UST-1(b)	Q 1,2,3,4 By Region  Q 3,4 By Region
Identify, investigate and respond to violations of the Interim Prohibition and new federal regulations, in order to encourage compliance. (Interim Prohibition ceases to exist when federal regulations are promulgated.)	<u>Enforcement of Interim Prohibition &amp; New Regulations (UST-2)</u>  Report on the following by State and Region separately:  Number of facilities inspected.* (Target combines regional and state inspections, but information is reported separately for regions and states.)  Number of facilities with violations identified.  Number of facilities against which an enforcement action has been filed.  Number of facilities that brought tanks into compliance, or fixed or properly installed tanks, as a result of formal enforcement actions or other actions.  * This measure requires regional targets.	UST-2(a)   UST-2(b)  UST-2(c)  UST-2(d)	Q 1,2,3,4 By Region  Q 1,2,3,4 By Region  Q 1,2,3,4 By Region  Q 1,2,3,4 By Region

UST PROGRAM DEFINITIONS

## UST-1: STATE PROGRAM APPROVAL

- (a) States implementing a comprehensive state UST program prior to application for program approval: means that the state now has a comprehensive state program that includes leak detection and corrective action (clean-up) programs. This means that, in the judgment of the Region, the State's UST program is of sufficient quality and scope to be likely to receive eventual approval from EPA. OUST will be discussing this definition in more detail with the Regional UST Coordinators in order to make this evaluation consistent.
- (b) States submitting draft applications and receiving review and comment from the Region: means that a state has submitted a draft application for program approval and that EPA has given the State at least written comment on the draft application. Information reported should indicate whether the draft application is for a partial program (either petroleum or chemical tanks) or a complete program (both petroleum and chemical tanks).

## UST-2: ENFORCEMENT OF INTERIM PROHIBITION &amp; NEW REGULATIONS

- (a) Number of facilities inspected: means inspection of an UST facility with any tanks subject to UST requirement to determine whether the tanks and underground piping meet all relevant state or federal requirements. An example of a facility is a gasoline service station, which is counted as one facility regardless of the number of tanks involved. Inspections to be counted include EPA conducted inspections, contractor inspection under EPA direction, or state inspections, and all those conducted under federal interim prohibition, new federal regulations, or existing state regulations. (Show numbers separately for inspections by the State or by EPA/EPA contractors.) (Quarters 2, 3 and 4 are reported cumulatively.)
- (b) Number of facilities with violations identified: means that the region or state has determined that there has been a violation of federal interim prohibition, new federal regulations, or existing state UST regulation. "State UST regulations" does not include fire codes, but instead refers to state UST regulations as defined in 1(a). (Show numbers separately for violators identified by state or regional staff.) (Quarters 2, 3, & 4 are reported cumulatively.)

UST PROGRAM DEFINITIONS

- (c) Number of facilities against which an enforcement action has been filed: means that EPA or the state has taken formal enforcement action(s) in response to all non-paperwork violations of requirements under the underground storage tank program. Formal enforcement actions encompass filed actions under RCRA §9006, including administrative complaints, initial administrative orders, final administrative orders (consent or contested) and filed civil judicial actions, and filed judicial actions pursuant to RCRA §7002, and state equivalents. (Show numbers separately for enforcement actions by state or EPA.) (Quarters 2, 3, and 4 are reported cumulatively.)
- (d) Number of facilities that brought tanks into compliance, or fixed or properly installed tanks, as a result of formal enforcement actions or other actions: means the number of UST facilities with tanks in violation of applicable federal or state requirements or with damaged or leaking tanks that, as a result of formal enforcement actions or other actions by EPA or the state, have been brought into compliance or been otherwise fixed. For example, this includes any of the following actions: tanks have been removed from the ground or emptied and cleaned according to acceptable practices; tanks have been retrofitted or replaced in conformance with federal or state standards; or the tank(s) in violation was removed or not installed. Since this is intended as a measure of direct environmental results, it does not include facilities that only corrected paperwork violations, such as violations of recordkeeping and reporting requirements. Correcting violations of facility management requirements is important to our prevention program, but they are not included in this measure of environmental results. Formal enforcement actions are defined under 2(c) above. Examples of "other actions" include documented communications and Trust Fund Corrective Action Orders. Written documentation of actions taken and the result should be maintained by the initiating federal or state agency. (Show numbers separately for results from actions by the state or EPA.) (Quarters 2, 3, and 4 are reported cumulatively.)