



DIRECTIVE NUMBER: 9630.5

TITLE: FY-90 STATE UST PROGRAM GRANT GUIDANCE

APPROVAL DATE: April 1, 1989

EFFECTIVE DATE: April 1, 1989

ORIGINATING OFFICE: Office of Underground Storage
Tanks (OUST)

☒ **FINAL**

☐ **DRAFT**

STATUS:

REFERENCE (other documents):

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<div style="display: inline-block; vertical-align: middle; text-align: center;"> United States Environmental Protection Agency Washington, DC 20460 </div>		OSWER Directive Initiation Request		1. Directive Number 9630.5	
2. Originator Information					
Name of Contact Person		Mail Code	Office	Telephone Code	
Josh Baylson		OS - 420	OSWER/OUST	475-9725	
3. Title					
FY-90 State Program Grant Guidance					
4. Summary of Directive (include brief statement of purpose)					
Provides the criteria and procedures for allocation of grant funds for state underground storage tank (UST) program activities in FY-90.					
5. Keywords					
underground storage tanks, grants					
6a. Does This Directive Supersede Previous Directive(s)?					
<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes			
				What directive (number, title)	
				OSWER Directive 9630.4 - FY 89	
				State UST Grant Guidance	
b. Does It Supplement Previous Directive(s)?					
<input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes			
				What directive (number, title)	
7. Draft Level					
<input type="checkbox"/> A - Signed by AA/DAA		<input checked="" type="checkbox"/> B - Signed by Office Director		<input type="checkbox"/> C - For Review & Comment	
				<input type="checkbox"/> D - In Development	

8. Document to be distributed to States by Headquarters? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

This Request Meets OSWER Directives System Format Standards.	
9. Signature of Lead Office Directives Coordinator <i>Beverly Thomas</i> Beverly Thomas, OUST DIRECTIVES COORDINATOR	Date 4/3/89
10. Name and Title of Approving Official <i>Ronald Brand</i> Ronald Brand, Director OUST	Date 4/3/89

EPA Form 1315-17 (Rev. 5-87) Previous editions are obsolete.

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

APR - 1 1989

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE
OSWER DIRECTIVE 9630.5

MEMORANDUM

SUBJECT: FY 90 State UST Program Grant Guidance

FROM: Ron Brand, Director *Ron Brand*
Office of Underground Storage Tanks

TO: Waste Management Division Directors, Regions I-III, V-IX
Water Management Division Directors, Regions IV and X

Attached is the FY 90 State UST Program Grant Guidance. Overall the document has not changed very much from the one sent to you for review in early March. Please note, however, that "number of UST closures" has been added to the reporting requirements listed under Grant Administration, Section IV. The Federal regulations require owners and operators to provide the States with advance notice of closure. Therefore, this requirement will create a minimal reporting burden on the States. This addition is the result of a comprehensive review of measures and reporting requirements undertaken as part of an OUST project to develop effective national program measures. The remainder of the changes to the document are largely editorial.

The total amount of awards for State Program Grants for FY 90 has remained \$9 million. Accordingly the proposed Regional allocations will remain \$162.5 thousand per State (plus Puerto Rico and the District of Columbia) and \$137.5 thousand for remaining territories. The priority tasks (listed in priority order) eligible for funding with FY 90 grants are: State program development, program approval application, outreach efforts to promote compliance, and compliance monitoring and enforcement. They have not changed from the FY 89 guidance.

ATTACHMENT

cc: John Cannon, Acting Assistant Administrator, OSWER
OSWER Office Directors
Regional UST Program Managers
Harvey Pippin, Director, Grants Administration Division

April 1, 1989

FY 90 STATE UST PROGRAM 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 90. 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 and implementation, monitor progress, and evaluate grant fund expenditures.

Additional implementation guidance may be found in the "FY 1990 Agency Operating Guidance" (EPA, March 1989), the "FY 1989-FY 1990 Transition Strategy for the Underground Storage Tank Program" (EPA, April 1988, OSWER Directive 9610.5) and the "Transition Tasks List" (EPA, January 1989, OSWER Directive 9610.5-1). Additional procedural guidance may be found in the "Policy on Performance-Based Assistance" (EPA, May 1985).

II. PURPOSE OF STATE UST PROGRAM GRANTS

The purpose of the UST grant program is to assist States in developing and implementing effective State-run UST regulatory programs for the prevention, detection, and correction of leaking underground 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 of State programs. Many States have already developed or are developing mechanisms; i.e. tank fees, gas taxes, etc., to provide a consistent State funding base for their prevention program.

In addition to State program grants, EPA is developing a variety of implementation tools for use by States, and is providing a forum for States to share information and experience concerning UST programs. EPA is also providing Leaking Underground Storage Tanks (LUST) Trust Fund monies to States to assist in cleaning up leaking tanks. Under the LUST Trust Fund Cooperative Agreement Guidelines States are expected to make

reasonable progress during FY 89 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 making reasonable progress toward submitting a complete application may be grounds for increasing State access to the Trust Fund in FY 90. The only solution to the problem of leaking tanks is for States to implement prevention programs which, over time, will result in a drastic reduction in the number of leaking tanks.

EPA recognizes that there is a period of transition between the effective date of the Federal regulations and the date State programs are authorized by EPA to operate in lieu of the Federal program. Consistent with the overall strategy of building State programs, States will be asked to implement as much of the Federal UST program as possible, until such time as State programs are authorized to operate the program.

The emphasis of EPA's program implementation is on the long term, and the transition period will be characterized by the continuing growth of a national UST program realized through the building of State and local programs. It is EPA's objective to focus Federal resources and efforts on improving existing programs and facilitating the development of new State programs. Over time EPA's program implementation focus will shift from helping State's build their own capabilities and approving State programs to working in tandem with States to improve performance in specific program areas such as inspections, site assessments, corrective action, and enforcement.

III. FY 90 NATIONAL PRIORITIES AND FUNDABLE TASKS

The following are fundable tasks for FY 90 grants, listed in priority order. The priority tasks have not been changed from the FY 89 UST Program Grant Guidance. EPA recognizes that completion 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 State and the EPA Regional office, taking into account the nature and extent of program needs in that State and the national priorities. (The activities listed after each priority task are for illustration only. They are not required to be met in order to accomplish the priority task. Required activities are those actually negotiated between the Region and the State.) States do not have to conduct activities in all four fundable task categories although that approach is encouraged. On the other hand, a State should not exclusively be doing activities under, for example, Tasks 3 and 4 if it has not previously conducted activities under Tasks 1 or 2. It is anticipated that much of the work under Task 1, State program development, will be completed during FY 89 and the focus of activities during FY 90 will be on the remaining three tasks.

Priority Tasks:Task 1: STATE PROGRAM DEVELOPMENT.

- o Develop/revise State authorities and regulations for the State UST program in order to meet Federal standards.
- o Investigate/develop mechanisms to fund the State program.
- o Apply for a State UST program grant for FY 91.
- o Develop State authorities and procedures for an adequate compliance monitoring and enforcement program.
- o Maintain an on-going tank notification program and capability to report aggregate data derived from the notification requirements to EPA on an annual basis.
- o Secure technical assistance and training for State and local personnel for UST program implementation.
- o Investigate/initiate development of a State fund to help owners/operators meet financial responsibility requirements.

Task 2: PROGRAM APPROVAL APPLICATION.

- o Develop draft and/or final application for State program approval, and submit to the EPA Regional office.

Task 3: OUTREACH EFFORTS TO PROMOTE COMPLIANCE.

- o Promote compliance with Federal and State requirements through outreach efforts designed to disseminate regulatory and technical information to local governments and the regulated community.
- o Suggested priority areas include information on standards for new tanks, leak detection, corrective action, and closure.

Task 4: COMPLIANCE MONITORING AND ENFORCEMENT.

- o Identify, investigate and resolve violations of the Federal regulations.
- o Operate and enforce existing State UST programs.
- o Suggested priority areas are new tank installations and leak detection.
- o Conduct transition tasks as specified in OSWER Directive 9610.5-1.

IV. ALLOCATION OF STATE GRANT FUNDS

We expect the total FY 90 State grant allocation to be \$9 million. (This figure is based on the President's budget currently being considered by Congress.)

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 remaining territories. Regions have the ability to move funds among their States and territories.

Regional Allotments for FY 90 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
<u>Region 10</u>	<u>650K</u>
Total	\$9000K

V. STATE MATCH

FY 1990 State UST 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 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 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. Regions should negotiate with States to provide the information needed for: (1) measures UST-1 and UST-3 of the quarterly SPMS report (2) an annual report of aggregate tank data derived from the State notification data base and (3) the number of UST closures reported (permanently out-of-service without replacement).

Designated State agencies may enter into intergovernmental agreements with substate or local government agencies and thereby provide funds for the performance of specified tasks (40 CFR Section 31.36). 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 services must comply with applicable procurement requirements (40 CFR Part 31).

Grant Awards

All available grant funds should be obligated to the States in FY 90. FY 89 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 31.22).

When a State does not seek 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. Funds may not be diverted from Subtitle I or D to support Subtitle C activities, nor vice versa.

Grant Award Schedule for FY 90

April - June	Develop draft FY 90 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 the cause of problems which should be addressed by EPA.

Copies of all State program evaluation reports and end-of-year grant reports for FY 90 should be sent to Joe Retzer, Director, Implementation Division, OUST, within 30 days of completion of the report.

State Reporting Requirements

All States should report in a timely and accurate fashion the data needed for the quarterly activities report and the Strategic Planning and Management System (SPMS) report for the EPA UST program. Regions will need to relay this data to OUST/HQ within 10 working days of the end of each Federal fiscal quarter (QI, January 12; QII, April 13; QIII, July 13; QIV October 12). Regions and States may develop reporting schedules that allow them to meet these deadlines. Regions shall request that States report annually on aggregate data from their notification data systems.