

# **Completing an Original Application**

To the Colorado Petroleum  
Storage Tank Fund

# Overview of Webinar

(42 minutes in length)

- When to apply for reimbursement
- The Fund
- Listed Consultants
- Where to find the Original Application
- Completing the Original Application
- Affidavits
- Other Documents and Forms
- What to expect once Application is submitted

# **When to apply for reimbursement**

# Presence of Contamination

- Contamination must be present at levels exceeding OPS standards and require cleanup.
- The Fund reimburses for costs associated with assessment and cleanup of petroleum contamination in the soil, groundwater or surface water, and vapors.
- Does not pay for tank system removal, or costs to purchase and/or repair tanks, lines and dispensing equipment.

# The Fund

# Petroleum Storage Tank Fund

- Reimburses up to \$2 million per Event.
- \$10,000 deductible per Event for Tank Owners/Operators.
- No deductible for Non-Responsible applicants.
- Funded by the Environmental Response Surcharge (ERS) – fee charged on each tanker truck delivery of petroleum fuel to stations.
- ERS uses sliding scale from \$0 up to \$100 per tanker truck depending upon the Fund Balance.
- The ERS is currently and at \$100 per tanker truck, Fund receives ~\$3 million per month.
- Fund reimburses between \$30 to \$35 million per year.
- Average turn around time from submittal of an application to approval of the payment is currently about 60 working days.
- Statute dictates payment must be approved within 90 working days or interest must be paid to the applicant.

# Listed Consultants

# Listed Consultant Program

- Voluntary program where OPS reviews an environmental consultant's qualifications.
- If the consultant company and their individual scientists, engineers and/or geologists meet minimum qualifications regarding knowledge of OPS regulations and procedures, and minimal educational requirements, OPS will issue a Listed Consultant number to both companies and individuals associated with the company.
- Listed Consultants labor rates will be reimbursed at the rates described in the Reasonable Cost Guidelines (RCGs) for Listed Consultants – rates that are significantly higher than for Non-Listed Consultants.



# Where to find the Original Application

# Application Form

- Move to web page for Original application form
- [Fund Forms page](#)

# Completing the Original Application

# Eligibility Category – drop downs

- Most are Tank Owner/Operators.
- May be both, or one or the other.
- Non-Responsible (NR) categories.
- Property Owner – must have purchased site before 6/3/92 and been unaware of contamination.
- NR Tank Owner/Operator - discovered contamination while completing 1998 upgrades
- Lender – loan made after 9/30/95 with Certificate of Eligibility
- Orphan Tank Owner
- Abandoned Tank Owner

# Compliance for Tank Owners/Operators

- Must be in compliance with tank operating regulations.
- Must submit the required remediation reports within the schedule time period.
- Non-compliance may result in reduction of any reimbursement award, or
- Denial of Eligibility to the Fund.

# Applicant is: – drop downs

- Select appropriate type of entity
- Type of entity determines appropriate person or persons to sign the application.
- Proper signatory for various entity types is shown as a tab on the applications.

# Applicants Full Legal Name and SS# or FEIN#

- Must match signature page.
- Must match info on W-9 and IRS documentation.
- IRS documentation required to ensure no mismatches with the SCO which may result in payment being placed on hold.

# Contact Info

- Name, address, phone, fax, email address
- Along with the OPS goal of going paperless, we strongly urge all applicants and their consultants to have an email address. OPS uses email to communicate whenever possible.



# Remit and Remit Entity Address

- Can be different than applicant's mailing address.
- Most often scenario is payment is mailed to the consultant or a bank or finance company.
- Remit must be indicated on the W-9 – special W-9 form (contact Charles Hammonds for the W-9 form).

# Site Info

- Site Name – try to match COSTIS
- Address – should match COSTIS – let OPS know if different.

# Site and Tank Ownership History

- Provide as much information as possible.
- Current owner of the site and/or tanks may not be the current operator. This section allows for an explanation.
- Past owner info may be important and relevant to the eligibility determination.
- Copies of deeds and leases may be required, if applicable.

# Applicant's Representative

- Usually the environmental consultant.
- Consultant will be the primary contact.
- Phone number and email address essential.

# Cost Section

- Total from Listing of Costs – must match.
- Reimbursement from other sources – typically includes insurance settlements which are subtracted from the amount requested. Question #4 needs to be completed if there are other sources of reimbursement.
- Total requested for reimbursement = Listing of Costs = eRAP Total = Net of OPS invoices.
- Will = Net Reimbursement Request if no reimbursement from other sources.

# Dates of Work

- Should be earliest and latest dates of work from the invoices and invoice backup – not necessarily the consultant's invoice date.
- OPS often changes dates of work based on the backup documentation.
- Examples:

# Date of Work Changes

- Consultant invoice lists dates of work of 1/1/12 to 1/31/12 but backup documentation included utility charges beginning 12/13/11. Beginning date of work should be 12/13/11.
- Consultant invoice lists dates of work of 6/1/12 to 6/30/12 but backup documentation included hotel charges beginning 5/29/12 and Air Supply invoice for O2 cylinders with a shipped date of 7/3/12. Dates of work should be 5/29/12 to 7/3/12.

# Date of Work Changes

- Consultant invoice lists dates of work of 6/1/12 to 6/30/12 but backup documentation contained a phone bill with service beginning 5/2/12. Beginning date of work should be 5/2/12.
- Consultant invoice lists dates of work of 5/1/12 to 8/15/12 but backup documentation contains utility charges beginning 3/30/12. Beginning date of work should be 3/30/12.
- Consultant invoice lists dates of work of 7/1/12 to 7/31/12 but backup documentation contains an Air Supply invoice for O<sub>2</sub> cylinders has a shipped date of 4/12/12. Beginning date of work should be 4/12/12.



# PSTC Policy #8

- Not an issue with an Original Applications, but on Supplemental Applications, Policy #8 – costs submitted that overlap a time period already submitted on an earlier application – should be identified by an affirmative response to question #3 on the Supplemental Application. Failure to do so may result in the costs being unallowed.

# Release Information Questions

- #1 – provide information if the release was caused by a third party. OPS would also like to know if the third party was contacted regarding paying for the cleanup. If the applicant is found eligible, the Committee may pursue subrogation against the third party.

# Reimbursement Information Questions

- #2 – OPS tracks when the final application is submitted and will close (zero out) the EFS budget at this time.
- #4 – Receiving reimbursement from any other source will reduce the amount of reimbursement requested. Truthful and complete answers to these questions are essential.
- #5 – The Affidavit Insurance Documentation (hard copy with original signatures) is required with copies of insurance policies (hard or soft copy).

# Technical Information

- All reports requested for reimbursement should have already been submitted to OPS
- Technical reports should always be submitted to the Remediation Section.

# Highlights of Affirms, Certifies and Agrees language

- #1 - Applicant is the appropriate person (entity) to receive reimbursement.
- #1 - Application was prepared under the Applicant's direction or supervision.
- #3 - Information is true, accurate and complete. Entire award must be returned if misrepresentations or omissions, and/or failure to complete the cleanup are found.
- #4 - Any reimbursement from other sources for the same costs reimbursed by the Fund shall be returned to the Fund.
- #8 - State has audit rights for up to 3 years after payment.

# Highlights of Affirms, Certifies and Agrees language

- #9 - Services and supplies purchased at most reasonable rates available.
- #11 - Immediate repayment if any terms are breached.
- #13 - A Fund Payment Report will be issued when payment is approved.
- #15 - Additional requests for reimbursement are submitted on Supplemental applications.
- #16 - Applicant can protest any decisions on the Fund Payment Report for a period of 60 days from the date of the Fund Payment Report.

# Signature Page

- Legal name and Tax ID of Applicant must match first page.
- Must match info on W-9 and IRS documentation.
- Original signature of applicant or authorized person – and Date.
- Printed name and title of signatory.
- Seal if available.
- See tab on application form.

# Proof of Payment

- Most often is by a Proof of Payment Affidavit that is printed on the consultant's (or vendor's) letterhead. The affidavit must be signed and be notarized. Includes an option for a promissory agreement between the applicant and the consultant.
- Other options: cancelled checks (including bank encoding), CPA certification affidavit, and affidavits for work performed by Non-Listed applicants, work performed by employees of Listed applicants, and equipment or materials purchased by the applicant.
- Any one or combination of the proof of payment methods may be used, however each cost must be documented as paid by some acceptable form of proof of payment.



# Supporting Documentation

- One copy of the application and supporting documents are required submitted electronically.
- Starting January 1, 2014 all applications must be submitted electronically.
- Submit to [cdle\\_PSTReimbursementApps@state.co.us](mailto:cdle_PSTReimbursementApps@state.co.us)
- The signed application and any supporting affidavits submitted electronically are acceptable.
- Completed Listing of Costs (next page of the application) which lists invoices in date order.

# Supporting Documentation

- Each primary invoice requested on the Listing of Costs with backup documentation that includes subcontractor invoices \$1,000 and over, and always invoices/receipts for utilities, labs, and hotels – in date order. If the consultant provides their own invoice format, the invoice must also be presented in OPS format which includes Phase of Work, Activity and Task and Labor codes for each cost requested for reimbursement.
- IRS documentation which may include the LTR 147C for entities and LTR 76C for individuals (or equivalent document sourced by the IRS) and the IRS form W-9 that exactly matches the IRS documentation in the entity name and Tax ID fields.

# Release Detection Records

- OPS will only request release detection records if it is not already in our files.

# Electronic Submittal

- Send a copy of the application packet in PDF format to:  
[cdle\\_PSTReimbursementApps@state.co.us](mailto:cdle_PSTReimbursementApps@state.co.us)
- And where to seek assistance:
- Fund Section Supervisor 303-318-8510  
or [jane.bral@state.co.us](mailto:jane.bral@state.co.us)
- Website: [www.colorado.gov/cdle/fund](http://www.colorado.gov/cdle/fund)

# Next Tab - Listing of Costs

- Lists each primary invoice submitted for reimbursement. Primary invoices are the invoices from the applicant's contractor(s) – typically the environmental consultant but may include invoices paid by the applicant or work done by the applicant and/or their employees.
- The invoice amount may differ from the amount submitted for reimbursement if there are costs known to be unallowed or not eligible for reimbursement.

# Affidavits

# Affidavits

- Affidavits required:
- Insurance Documentation
- Proof of Payment
- Others based on your situation
- All affidavits need to be signed, notarized, dated and submitted electronically.

# Insurance Documentation

- Documents whether or not an insurance policy was in force which may cover assessment and remediation of a release.
- If there was a policy in force, documents the policy specifics and whether any payment has been made under the policy, or expected to be made.
- Copies of any and all policies in force at the time of the release are required to be submitted.



# Proof of Payment

- Must be on the contractor's (consultant's) or vendor's letterhead.
- Lists invoices included with the application.
- Contractor (consultant) certifies they have been paid, or will be paid (promissory agreement).
- If promissory agreement is in place, provide a signed copy.

# Work Performed by Non-Listed Applicant

- To be used when an applicant performs their own work – such as sampling events, excavation, etc.
- Non-Listed applicant labor hours may be reimbursed at a lower rate for labor categories 5.4 and higher, per the RCGs.

# Work Performed by Employees of Listed Applicant

- To be used when a Listed Applicant's employees perform some of the work.

# Applicant Expenses

- To be used for reimbursement of applicant expenses when applicant performs their own work.
- No markup is allowed.

# Equipment or Materials Costing \$10,000 or Over

- Must be on contractor's (consultant's) or vendor's letterhead.
- Intended to document that expensive equipment components and/or materials were actually purchased and delivered to the site.
- Has been modified on a case by case basis to provide for progress (incremental) payments.

# Lender

- Non-responsible category – no deductible.
- For lenders that get the property back via foreclosure or deed in lieu of foreclosure.
- If loan is made after September 30, 1995, lender must have a Certificate of Eligibility to be eligible in this category.
- The Certificate must be issued prior to the release discovery.

# Current/Former Property Owner

- Non-responsible category – no deductible.
- Must have acquired the property before June 3, 1992.
- Must not have known of the presence of contamination.
- Must not have installed, operated and/or leased tanks at the site.

# Property Owner Mergers or Acquisitions

- Created for a specific situation where the applicant was a company that had merged with another company and this other company had purchased the property before June 3, 1992.



# Property Owner (Inherited Property)

- To be used when the applicant has inherited the property from a person who would have in their own right qualified as property owner.

# Orphan or Abandoned Tanks

- Abandoned Tank means an underground or aboveground petroleum storage tank where the current Tank Owner or Operator or current Property Owner did not install, has never operated and/or leased the system to another party for operation, and had no reason to know was present on the site at the time of site acquisition.
- Orphan tank means an underground storage tank which is: (a) owned or operated by an unidentified owner as defined in this article; or (b) no longer in use and was not closed in accordance with the procedures required by this article and the property has changed ownership prior to December 22, 1988, and such property is no longer used to dispense fuels.

# Orphan or Abandoned Tanks Mergers or Acquisitions

- Created for a specific situation where the applicant was a company that had merged with another company and this other company had discovered the abandoned tank.

# Tank Owner/Operator (Operative Tanks)

- To be used when a current tank owner or operator discovers a release that was the result of a previous operator.
- Must document that the current tank owner or operator has operated in full compliance.
- Release was discovered before December 22, 1998.

# Other Documents for Non-Responsible Applicants

- Copy of the deed documenting when the site was purchased.
- Any leases where the site was leased to others.
- Brief chronology of the site history, when it was acquired and how and when contamination was discovered.
- Lenders must also provide copies of the original loan, foreclosure documents and if the loan is dated after September 30, 1995, the Certificate of Eligibility.

# Emergency Generator Tanks

- To be used to document that tanks used solely for storing fuel for an emergency generator are deferred from needing to do release detection.

# Waiver of \$10,000 Deductible

- To be used for releases discovered during upgrading tanks to meet the December 22, 1998 upgrade deadline and the upgrade was completed a year early before December 22, 1997.

# Request for Waiver of PSTC Policy #8

- Committee Policy #8 states that an applicant can not seek reimbursement for costs for a time period for which the applicant has already received reimbursement.
- Policy #8 can be waived related to certain pass through costs, such as lab and utility charges.
- Will never be waived for labor charges.
- Waivers should be sought from the Remediation Section Technical Reviewer.



# Salvage Value of Equipment Purchased by the Fund

- Intended for use near the completion of a cleanup when equipment costs were reimbursed by the Fund and the equipment is sold for salvage.
- The applicant's final reimbursement payment will be reduced by the amount of the salvage value.

# Other Documents and Forms

# Other Forms

- CPA Certification: Proof of Payment
- Protest of Fund Payment Report
- Request to Transfer Fund Eligibility
- Certificate of Eligibility
- EFT Direct Deposit Authorization Form

# eRAP

- Electronic submittal of application costs (eRAP) is required with all applications – all Phases of Work 1, 2 and 3.
- Excel file with each cost presented as a separate line item with appropriate Phase of Work, Activity and Task and Labor coding. If multiple invoices are included with the application, all the costs from the OPS invoices are combined in one eRAP.
- Submitted after receiving RAP # from OPS in the acknowledgement letter.
- Submit to:  
[cdle\\_efs\\_fundapplications@state.co.us](mailto:cdle_efs_fundapplications@state.co.us)

**What to expect once  
Application is submitted**

# What to Expect when the Original application is submitted

- Intake
- Review (Eligibility, Accounting, Technical, Compliance)
- Deficiencies noted – if needed
- Signup for Committee
- Notification of Committee date
- Committee
- Fund Payment Report and payment
- Current turn around time for original applications is 58 days – signed up for Committee

# Electronic Funds Transfer (EFT)

- Direct deposit to Applicant's bank account.
- When Fund Payment Report is approved, OPS will send an email to you which contains:
  - Fund Payment Report and attachments
  - Remittance file listing each RAP number and the amount reimbursed (useful if an applicant receives payments for multiple RAPs).
- Payment transmitted as a lump payment if multiple RAPs are paid at the same time.



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