

Supplemental Instructions to Budget and Billing Forms

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Payment from the Fund

EARLY ACTION AND SITE INVESTIGATION

Will payment from the Fund be made for two mobilizations to the site for early action and Stage 1 work?

Generally, one mobilization should suffice for early action and Stage 1 work. However, the need for more than one mobilization will be reviewed on a case-by-case basis.

If an incident was reported a number of years ago (hence, the early action period lapsed long ago) but early action sampling was not performed, will the owner or operator be paid from the Fund for early action sampling performed at this late date?

Sampling conducted after the expiration of the early action period must be approved in a plan. Determinations regarding payment from the Fund will be made on a case-by-case basis, depending upon the circumstances involved.

If the Stage 1 site investigation began prior to March 1, 2006 (before there were prescriptive stages), can actual costs of work performed be submitted in order to get paid for that work?

Yes. Part 734 was designed such that, upon submittal of the subsequent plan or report (which includes results of the previous stage work and documentation of work actually performed), the costs of performing the work may be submitted for payment from the Fund.

If some site investigation work at a site was performed before March 1, 2006, and the remaining work is performed after March 1, 2006, can the owner or operator be paid for the site investigation work completed to date prior to the site investigation completion report being approved?

Yes. An example will illustrate this more clearly.

On-site site investigation work has been completed. A site investigation plan (and budget) was approved before March 1, 2006. An off-site site investigation plan (and budget) is submitted after March 1. This (Stage 3) plan contains the results of the site investigation work completed to date (Stages 1 and 2).

Will payment from the Fund be made for the cost of the on-site site investigation work completed to date? Yes, the costs previously approved in the budget will be paid. For this to occur, the Stage 3 plan must contain the following information:

- * Documentation of the site investigation work completed to date.
- * Actual costs of the site investigation completed to date (Stages 1 and 2) on budget forms, and separate budget forms for the proposed costs of the stage 3 site investigation.

Within the earlier instructions, it is stated that a summary of the actual costs for conducting the Stage 1 site investigation should be submitted concurrently with the results of the Stage 1 site investigation and the next site investigation plan and budget (or SICR). Should the Stage 1 actual costs, then, be submitted on the same budget forms as the proposed costs for the next stage?

No, the actual costs of the Stage 1 site investigation should be submitted on budget forms, and the proposed costs for the next stage should be submitted on separate budget forms. Only one budget certification form is required to accompany both budgets.

What happens if the actual costs for Stage 1, 2, or 3 site investigation are not submitted on separate budget forms?

The Illinois EPA will not approve payment of site investigation costs for a given stage when only a request-for-payment application is submitted. The reason is because, without approved actual (line item) costs, the Leaking UST Claims Unit cannot approve payment of site investigation costs.

An example will illustrate how the Illinois EPA handles site investigation budgets. The Illinois EPA approves, or approves with modifications, Stage 1 actual costs and the Stage 2 proposed budget. For Stage 2, rather than providing proposed actual (line item) costs in the approval letter, the Illinois EPA provides specified language about the approval of the Stage 2 site investigation plan and budget. Modifications to the Stage 2 budget are also provided, if applicable. Approved line item costs for Stage 2 actual costs are provided in the next site investigation plan or report approval letter.

For additional information about site investigation plans and budgets, refer to the [Site Investigation Process](#) flow chart and the accompanying [explanation](#).

Will site investigation budget amounts cumulate as they do with corrective action?

No, they will not. Response letters from the Illinois EPA will not include line-item amounts for each stage until such time as that particular stage of activities is completed.

ANALYTICAL

Will payment from the Fund be approved for the collection and analysis of multiple samples to obtain site-specific data for use in Tier 2 calculations?

Generally, sampling from one representative location should suffice for collection of the site-specific parameter data. Professional judgment should be used to determine the sampling location—representative of the site and in an undisturbed, uncontaminated area.

However, if more than one sample can be justified to the Illinois EPA, it may be approved on a case-by-case basis.

CORRECTIVE ACTION

If an approved Corrective Action Plan proposed the use of an alternative technology for groundwater remediation and, later, the owner or operator decides instead to use an on-site groundwater use restriction and an Environmental Land Use Control, will payment from the Fund be made for the initial CAP?

Generally, payment from the Fund will not be made for costs of activities or services not implemented, and, generally, payment from the Fund will only be made for the preparation of one plan. However, the final determination will be made on a case-by-case basis, depending upon the circumstances.

Is the UST Fund Payment Priority List accessible on the Web?

Yes, on the Illinois EPA Web site, click Land, then Databases, then Leaking Underground Storage Tanks. The Web address is:
<http://epadata.epa.state.il.us/land/ust>.

ENGINEERED BARRIER/PAVING

Is it true that an engineered barrier must be in place before issuance of the No Further Remediation (NFR) Letter, but payment from the Fund for its cost will not be made until after issuance of the NFR Letter?

An engineered barrier must be in place prior to the issuance of an NFR Letter. However, payment from the Fund can be made at any time—but only once.

If, for instance, remediation of groundwater contamination will be ongoing for a couple of years, can payment from the Fund for paving be approved now so business can resume rather than waiting for years?

A plan and budget for replacement paving can be approved and carried out prior to the completion of remediation. However, any subsequent destruction and replacement of the new paving is not eligible for payment from the Fund.

REPLACEMENT COSTS

Is water or sewer line replacement eligible for payment from the Fund?

Generally, water or sewer line replacement is not considered an activity that is required to meet the minimum requirements of Title XVI of the Act. Decisions are made on a case-by-case basis.

RECORDING OF NO FURTHER REMEDIATION LETTER

Can a No Further Remediation Letter be recorded by mail?

Yes, the letter, with a copy of any applicable institutional controls, may be recorded by mail. The owner or operator, or the consultant on behalf of the owner or operator, may submit the letter by mail to the office of the recorder or the registrar of titles of

the county in which the site is located with a request that it be recorded. A self-addressed, stamped envelope should be enclosed, accompanied by a request for return of a photocopy of the recorded document. Generally, the consulting personnel cost that is approvable for payment from the Fund is a reasonable amount of administrative assistant time to accomplish the task (e.g., copying, mailing, etc.). The county recorder or registrar of titles fee for recording the No Further Remediation Letter is also a cost that is approvable for payment from the Fund.

Driving to the court house to hand-deliver the letter and a copy of any applicable institutional controls is a corrective action activity in excess of that necessary to meet the minimum requirements of the Act, the cost of which is ineligible for payment from the Fund.

If a particular county does not allow for recording documents by mail, then the cost to perform the task must be submitted for Illinois EPA approval on a site-specific, time-and-materials basis.

BUDGET AND BILLING FORMS AND QUESTIONS

In the General Information section of the Budget and Billing Forms, there is an area for information as to where payment checks should be sent. It is stated that payment can only be made to an owner or operator. Can the consultant's name be entered in the space following "Send in care of:"?

Yes, as the following example illustrates:

Pay to the order of: Site Name or Owner/Operator's Company or
Owner/Operator Name

Send in care of: Owner/Operator Name c/o Consulting Firm

Address: Consultant's Address

City: Consultant's City State: Consultant's State Zip: Consultant's Zip

Please be reminded that a W-9 should be submitted with every application for payment.

On the Consulting Personnel Costs form, is the employee name necessary for the proposed budget submittal?

No, the employee name is not necessary for the proposed budget submittal, but it is required for applications for payment.

Is documentation for personnel titles (such as years of experience and educational background) required?

Documentation for personnel titles is not required to be submitted as a part of a proposed budget or application for payment. However, please see 35 Ill. Adm. Code

732.614 and 734.665 regarding the retention of information related to documents submitted to the Illinois EPA.

If an application for payment consists of some costs for work performed prior to March 1, 2006, and some costs for work performed after March 1, 2006, is proof of payment of the subcontractor costs required for only those incurred after March 1, 2006, in order to be eligible for handling charges?

Applications for payment received by the Illinois EPA after March 1, 2006, must include proof of payment of subcontractor costs for which handling charges are requested regardless of when the work was performed.

If a budget was approved prior to March 1, 2006, but work was performed after March 1, 2006, will costs that exceed the Subpart H maximum payment amounts be paid from the Fund?

Costs incurred pursuant to a budget approved prior to March 1, 2006, will be paid in accordance with the amounts approved in the budget. Please be reminded that the billing forms corresponding to the approved budget should be used when submitting applications for payment.

Can two sets of budget forms be submitted—one for work performed during the previous stage and one for work proposed during the next stage?

Yes. Two sets of budget forms must be submitted—one reporting actual costs of the previous stage, and one proposing costs of the next stage, if applicable.

If the Stage 1 site investigation began prior to March 1, 2006, should the next site investigation plan and budget (which includes the results of Stage 1) be submitted on the new forms?

Yes. However, if site investigation is ongoing and old budget forms had already been submitted and costs approved, continue site investigation using the old forms. At the corrective action phase, then, begin using the new budget forms. The same applies to billing forms.

Should the new billing forms be used for Part 731 sites?

Yes, the new forms should be used.

RECORDS RETENTION

Who is responsible for maintaining records?

Owners and operators are the parties responsible for maintaining all books, records, documents, and other evidence directly pertinent to whatever information is submitted to the Illinois EPA.

NON-APPROVED COSTS

What are examples of costs the Illinois EPA has not approved in a budget or application for payment?

The following are examples of costs the Illinois EPA has not approved. Please note that all reviews are conducted on a site-specific basis.

air knife
laptop and desktop computers
office supplies such as pens and pencils
personal protective equipment such as Tyvek and nitrile gloves
film and development if photos are not taken or submitted to the Illinois EPA
owner or operator oversight
vehicle rental if mileage is charged (and vice versa)
curbing replacement
landscaping
land surveying
per diem with no overnight stay
"re-work" by a new consultant
"fee" charged by off-site property owner to access property to conduct off-site investigation/remediation
attorney fees
security personnel

Subpart H – Maximum Payment Amounts

DRILLING, WELL INSTALLATION, AND WELL ABANDONMENT

How are the drilling and well installation rates at 35 Ill. Adm. Code 732.820(a)/734.820(a) interpreted? What is a "round of drilling"?

An example should clarify how the rates are used. The job is to drill five soil borings to a depth of 20 feet each and convert each soil boring to a groundwater-monitoring well. A hollow-stem auger will be used.

Drilling of soil borings:
Total depth = 100 feet
Drilling rate = greater of \$23/foot or \$1500
Total cost of drilling = \$2300*

Since \$2300 is greater than \$1500, the owner or operator would use \$2300 in the budget.

* Includes, but is not limited to, such costs as mobilization, drilling labor, decontamination, and drilling.

Installation of groundwater-monitoring wells:
Hollow-stem auger rate = \$16.50/foot
Total cost of installation = \$1650*

* Includes, but is not limited to, those costs associated with well construction and development (for example, sand, bentonite, screens, and risers).

Round of drilling:

In the example above, the round of drilling consists of drilling the five soil borings and installing the five groundwater-monitoring wells, regardless of the time frame it takes to complete the work (e.g., one or two days).

If the environmental professional develops the groundwater monitoring wells, should the costs for well development be included on the Consulting Personnel Costs form?

Yes. The costs for well development performed by an environmental professional will be paid on a time and materials basis.

If the environmental professional performs the work to abandon the groundwater monitoring wells, should the costs for well abandonment be included on the Consulting Personnel Costs form?

No. The Subpart H maximum payment amount for well abandonment includes the cost of labor. It is not required that well abandonment be performed by the environmental professional. However, if the environmental professional performs the work, the cost to do so is included in the maximum payment amount. Making payment from the Fund for this task (or to oversee this task) would be payment of costs for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o)).

If a direct-push platform is used for soil sample collection, followed by hollow-stem auger drilling for installation of a groundwater monitoring well, would payment from the Fund be made for both rates?

No, making payment from the Fund for both types of drilling would be payment of costs for corrective action activities in excess of those required to meet the minimum requirements of Title XVI of the Act (Section 57.7(c)(3) of the Act and 35 Ill. Adm. Code 734.630(o)).

On which of the budget forms should I include the cost of the remediation compound to be injected, the cost of nutrients, and the cost of environmental professional oversight (e.g., project manager) for drilling and injection work, as well as mileage, per diems, and hotel charges?

Include the cost of the remediation compound to be injected and the cost of nutrients on the *Remediation Materials Costs Form*. Include the cost of environmental professional oversight on the *Consulting Personnel Costs Form*. Include the cost of mileage, per diems, and hotel charges on the *Consultant's Materials Costs Form*.

DEDICATED BAILER

On which of the budget forms should I include the cost of a dedicated bailer?

Include the cost of a dedicated bailer on the *Consultant's Materials Costs Form*.

DRUM DISPOSAL

Is it acceptable to propose drum disposal costs at a rate of one drum for each monitoring well developed/sampled?

The number of drums is determined on a site-by-site basis.

SAMPLE HANDLING AND ANALYSIS

Do the sample handling and analysis maximum payment amounts at 35 Ill. Adm. Code 732/734. Appendix D for metals include preparation charges?

Appendix D contains a maximum payment amount for each metal test and a separate maximum payment amount for sample preparation.

Does the sample handling and analysis maximum payment amount at 35 Ill. Adm. Code 732/734. Appendix D for LUST Pollutants Soil include preparation charges?

Yes, the maximum payment amount for LUST Pollutants Soil includes preparation charges.

Since 35 Ill. Adm. Code 732/734. Appendix D does not list a sample and analysis maximum payment amount for LUST Pollutants Water, should the individual sample handling and analysis rates for water samples be added to determine a maximum payment amount?

The collection of a LUST Pollutants Water sample is not required.

The maximum amount payable from the Fund for sample analysis of soil particle density is not included in Appendix D. How much should be budgeted for the analysis?

For laboratory analyses not included in Appendix D, the Illinois EPA will determine reasonable maximum payment amounts on a site-specific basis.

Are sampling kits (such as VOC vials and plastic sampling syringes) considered equivalent sampling devices to the EnCore[®] sampler and, therefore, eligible for the sampling device maximum payment amount listed at 35 Ill. Adm. Code 732/734. Appendix D?

Sampling kits designed to comply with SW-846 Method 5035 for the collection of a soil sample for volatile organic compound analysis are considered "equivalent sampling devices" for the purposes of the sampling device maximum payment amount listed in Appendix D.

CONCRETE, ASPHALT, AND PAVING; DESTRUCTION OR DISMANTLING AND REASSEMBLY OF ABOVE GRADE STRUCTURES

Does the Subpart H maximum payment amount for the replacement of four inches of concrete include oversight costs of the environmental professional?

No, the Subpart H maximum payment amount for the replacement of four inches of concrete does not include environmental professional oversight services.

In order to be paid from the Fund the \$10,000 maximum payment amount allowed in Subpart H for the destruction or dismantling and reassembly of above grade structures, must a breakdown of costs be submitted?

The proposed budget may include the total proposed amount for the site, but a breakdown of costs must be provided with the application for payment.

Can the destruction or dismantling and reassembly of above grade structures be bid so as to possibly increase the \$10,000 maximum payment amount?

No, the \$10,000-per-occurrence limit on the destruction or dismantling and reassembly of above grade structures cannot be increased via bidding.

BIDDING

If costs for a project task are bid, when should bids be submitted?

Copies of all bids must be submitted with the associated budget. The *Bid Summary Form* and *Contractor Certification Forms* must be completed and returned to the Illinois EPA with the bids.

Oftentimes, bids are good for only 60 days. What must be done to ensure the 60-day time frame is not exceeded before the plan and budget are reviewed by the Illinois EPA?

The bids must remain valid for a period of time that will allow the owner or operator to accept them upon the Illinois EPA's approval of the associated budget.

Must the lowest bidder be used to perform the work?

No, the owner or operator is not required to use the lowest bidder to perform the work but, instead, may use another person qualified and able to perform the work. Regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid—unless the lowest bid is less than the maximum payment amount set forth in Subpart H, in which case the maximum payment amount set forth in Subpart H is allowed.

If the costs for drilling are bid, should the scope of work include the purchase of drums for disposal of soil boring cuttings?

No, the Subpart H maximum payment amount for drum disposal includes the costs associated with the purchase of drums.

HANDLING CHARGES

The Subpart H maximum payment amount for costs associated with the removal, transportation, and disposal of contaminated soil is \$57/cubic yard. If an environmental consulting firm uses its own personnel to conduct the excavation and transportation but the disposal is handled as a subcontract with the landfill, are handling charges on the landfill subcontract that are charged by the environmental consulting firm eligible for payment from the Fund?

Yes, the owner or operator may apply for payment from the Fund for handling charges for the landfill disposal costs.

INCREASE IN MAXIMUM PAYMENT AMOUNTS

What is the inflation factor effective July 1, 2007?

The inflation factor effective July 1, 2007, is 3.00 per cent.

How is the maximum payment amount increase determined?

The latest published annual Implicit Price Deflator for Gross National Product is divided by the annual Implicit Price Deflator for Gross National Product for the previous year. The result is then rounded to the nearest 1/100th. In no case can the inflation factor be more than five percent in a single year.

If costs in a budget were approved prior to July 1 but the work was actually performed after July 1, can I submit an amended budget and receive payment for the added inflation factor effective July 1?

No. For costs approved by the Illinois EPA in writing prior to the date the costs are incurred, the applicable maximum payment amounts are the amounts in effect on the date the Illinois EPA received the budget in which the costs were proposed. Once the Illinois EPA approves a cost, the applicable maximum payment amount for the cost cannot be increased (such as by proposing the cost in a subsequent budget).