



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

DEC 15 2009

OFFICE OF THE
CHIEF FINANCIAL OFFICER

MEMORANDUM

SUBJECT: FY 2010 Deobligation Recertification Guidance - Superfund/LUST/Oil Spill Response Resources

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TO: Assistant Regional Administrators

This memorandum replaces the FY 2009 Deobligation Recertification Guidance and provides guidance and procedures to recertify deobligated Superfund, Leaking Underground Storage Tanks (LUST), and Oil Spill Response resources in FY 2010. Because Superfund, LUST, and Oil Spill Response appropriations are no-year appropriations, prior-year obligations of these funds may be deobligated and recovered by the Agency for reobligation. As with unobligated carryover balances, these deobligated funds must be reappropriated to the Agency by the Office of Management and Budget (OMB). The Director of EPA's Office of Budget (OB) issues these funds to the Agency's Responsible Program and Implementation Office (RPIO) through a process called "recertification". The FY 2010 guidance remains in effect until the FY 2011 Deobligation Recertification Guidance is issued. Consistent with OB's FY 2010 Year End Closeout Schedule, all recertification requests must be submitted by September 3, 2010, to ensure funds are recertified prior to the end of FY 2010. Beginning this year, RPIOs will be required to include a copy of the IFMS reprogramming into the FY 2010 Recertification Database. For information on this, please see Attachment I.

NOTE: Superfund and LUST resources appropriated under P.L 111-05, the American Recovery and Reinvestment Act of 2009 (ARRA), are “two-year” funds which expire at the end of FY 2010 and are therefore not subject to recertification. The Region must consult with Headquarters (the appropriate OSRTI regional coordinator or the LUST Office Director) in advance of deobligating any Superfund or LUST ARRA resources. ARRA Management and Oversight (M&O) funds in the Environmental Programs and Management (EPM) account which expire at the end of FY 2011 are not subject to recertification.

In FY 2009, OB successfully implemented the use of the Lotus Notes Recertification Database in lieu of manually routing recertification requests for approval. As a result, we will continue to use the Database, and all requests for recertification of deobligated Superfund, LUST, and Oil Spill resources must be submitted using the OB FY 2010 Recertification Database (the database).

Please read this guidance carefully because there have been changes to the process for receiving resources for your RPIO via the Recertification Database. The database has been upgraded to accommodate these changes.

A. GENERAL DEOBLIGATION REQUIREMENTS

- Prior to the recertification process, deobligation must occur¹. The RPIO must first identify an obligation which is available for deobligation.
- The RPIO must prepare and submit a deobligation request (Procurement Request/Modification) to the appropriate office (i.e., Office of Acquisition and Management for contracts or Grants Administration Division for grants/cooperative agreements/interagency agreements) for processing, if this is not done automatically.

NOTE: It is the responsibility of the RPIO/RSRO to maintain the appropriate documentation required for internal control reviews and compliance with OMB Circular A-123.²

B. GENERAL RECERTIFICATION REQUIREMENTS

As a result of the FY 2010 Interior, Environment and Related Agencies Appropriations Act and prior appropriations acts, all appropriated Superfund, LUST, and Oil Spill Response resources will be accounted for at the program area, program/project level, and if applicable, sub-program/project level. Once recertified, requests to move these recertified funds across program/projects will be subject to the Agency’s reprogramming threshold guidelines outlined in the current Advice of Allowance memorandum.³ **If a change in program/project is required, the RPIO must submit a separate reprogramming request via the Budget Automated System**

¹ This may occur automatically for grant or contract closeouts from the Grants Administration Division or the Financial Management Division in RTP.

² OCFO/OFMs’ memorandum “FY 2008 Review of Unliquidated Obligations” which provides procedures and technical guidance for necessary documentation can be found at:

http://intranet.epa.gov/ocfo/perform/pdfs/2008_uo_review_regions.pdf.

³ Advice of Allowance memorandums are available at <http://intranet.epa.gov/fmdvally/budget/budgetmemos.htm>.

(BAS) after the recertification of these funds has been processed in the Integrated Financial Management System (IFMS). For information on BAS Reprogrammings, please contact Laurel Mankiewicz at 202-564-5955. All such reprogramming requests should be processed through the Senior Budget Officer (SBO) for the appropriate NPM.

1) Current Budget Fiscal Year (BFY) Deobligations

- Funds deobligated within the same fiscal year that they were originally obligated do not require recertification. These funds will be automatically reallocated to the original RPIO/Allowance Holder (AH) in the same program/project, and if applicable, sub-program/project.

2) Prior Budget Fiscal Year (BFY) Deobligation Recertification

- Funds deobligated in a fiscal year subsequent to the fiscal year in which they were originally obligated **do** require recertification.
- All deobligated Superfund/LUST/Oil Spill Response funds that are recertified will be returned to the RPIO/AH that initiated the deobligation, unless otherwise noted in Section D: Additional Requirements for Recertifying Certain Superfund Resources.
- The RPIOs **must** request recertification of deobligated resources using the FY 2010 Recertification Database developed by OB. To obtain a link to the database, please contact Pat Wingfield at 202-564-6678 or Laurel Mankiewicz at 202-564-5955.
- A “First Level” approval must be applied to Regional recertification requests in the database by a Regional Program Branch Chief or higher before being forwarded to Headquarters (HQ) for the “Second Level” or “Final” approval. For HQ RPIOs, requests must be approved by a HQ Program Branch Chief or higher and then forwarded to HQ OB for the second or final approval.
- A memorandum request and supporting documentation from the Financial Data Warehouse (FDW) are no longer required to be attached to requests for recertification of deobligated resources. However, the “Justification/Comment” box provided in the FY 2010 Recertification Database should include a brief justification for the recertification (comparable to the “purpose/stipulation statements” in the IFMS recertification reprogramming) as well as a justification for any exceptions to this guidance. RPIOs may include other relevant information as needed. For additional information on how to request recertification of deobligated resources in the FY 2010 Recertification Database, please see Attachment I.
- As in the past, the recertification process for Working Capital Fund (WCF /all NPMs – BOC 38 only) and Management and Support resources (NPMs: OCFO, OARM, OGC, and OEI) only requires an IFMS reprogramming request and OB approval of the recertification database request.
- Issuance of resources from “approved” recertification requests requires an IFMS reprogramming document. The purpose/stipulation statement of the IFMS

reprogramming document should include, in addition to standard reprogramming requirements, the Recertification Database Request ID number (see the instructions in Attachment I on where to find this ID number). Beginning this year, RPIOs will be required to copy and paste the IFMS reprogramming (header and line screens) into the FY 2010 Recertification Database. For information on this, please see Attachment I.

- Recertifications of resources obligated prior to the establishment of program/projects generally will be returned to the program/projects most closely associated with the original Program Element (PE) or Program Results Code (PRC).
- Resources recertified/returned for the Remedial and Removal Programs that originate from Site Allowances (e.g., Remedial Action, Pipeline, Removal, Removal Support) are subject to the HQ/Region 75/25 percent split, and must identify:
 - a) the original program/project from which the funds are being deobligated.
 - b) the "TO" lines for both the National Pool (Budget Organization Code 9R) and the RPIO receiving the recertified funds.

NOTE: All documents entered on the IFMS Suspense FileTable (SUSF) are subject to a timeline and therefore should be reviewed and monitored until completed. For additional information on the review and maintenance of these documents, please refer to the OCFO/OFM Policy titled Financial Management Systems and Interface (RMDS No. 2540-20-P1).⁴

3) Unrecertified Prior Budget Fiscal Year (BFY) Deobligations

- All deobligations of prior year Superfund, LUST, and Oil Spill resources that are not recertified in the same fiscal year as the deobligations occurred may be issued in the subsequent fiscal year as carryover to the appropriate OSWER Headquarters program office to be used for funding Superfund remedial action, LUST corrective action, and Oil Spill response (clean-up) projects, respectively. The Region must consult with HQ (the appropriate Office of Superfund Remediation & Technology Innovation (OSRTI) regional coordinator or the LUST Office Director) in advance of deobligating any Superfund or LUST ARRA resources.

4) (ARRA) funded Superfund and LUST Resources

- ARRA funds for Superfund and LUST that are deobligated in FY 2010 do not require recertification because they are two-year appropriations. In FY 2010, these funds will be automatically reallocated to the original RPIO/AH in the same program/project, and if applicable, sub-program/project and add-on code. ARRA program-specific funds will expire at the end of FY 2010 and funds deobligated after these dates will not be available for recertification. **The Region must consult with HQ (the appropriate OSRTI regional coordinator or the LUST Office Director) in advance of deobligating any Superfund or LUST ARRA resources.**

The following table summarizes the general recertification requirements and placement of

⁴ Guidance is available at <http://intranet.epa.gov/ocfo/policies/direct/2540-20-susf-procedures.pdf>.

deobligated funds by deobligation type for Superfund, LUST, and Oil Spill resources:

Type of Deobligation	Recertification Requirements	Placement of Deobligated Funds
Current BFY Deobligations	Recertification <u>IS NOT</u> required.	Resources allocated to original RPIO AH <u>in the same program/project</u> , and if applicable, sub-program/project in appropriate fund code (e.g., T, TC, or TCD for Superfund; F or FC for LUST; and H or HC for Oil Spill) in current BFY.
Prior BFY Deobligations	Recertification <u>IS</u> required.	Resources allocated to original RPIO/AH <u>in the same program/project (or equivalent)</u> , and if applicable, sub-program/project in appropriate fund code (e.g., TCD for Superfund; FC for LUST; and HC for Oil Spill) in current BFY.
Unrecertified Prior BFY Deobligations	Not applicable.	Prior BFY deobligations that are not recertified by the end of the fiscal year in which they were deobligated may be reallocated as carryover in the appropriate fund code (e.g., TC for Superfund, FC for LUST, and HC for Oil Spill) and potentially to the appropriate OSWER HQ program office in the following fiscal year.
ARRA SF and LUST Deobligations	Recertification <u>IS NOT</u> required.	FY 2010 resources allocated to original RPIO/AH <u>in the same program/project</u> , and if applicable, sub-program/project and add-on code. Regions must consult with HQ (the appropriate OSRTI regional coordinator or the LUST Office Director) in advance of deobligating <u>any</u> Superfund or LUST ARRA resources.

C. PRIOR SUPERFUND APPROPRIATIONS NOT AVAILABLE FOR RECERTIFICATION

In 1986, the Agency received several small appropriations to remain in operation. The following are examples of funds with special provisions that cannot be recertified (but must still be deobligated to close out the associated contract, grant, cooperative agreement, or InterAgency Agreement (IA):

“Q” -- No-year funds.

“U” -- \$150 million appropriated for only two months (March & April, 1986).

“I” -- \$15 million appropriated through September 1986 only.

D. ADDITIONAL REQUIREMENTS FOR RECERTIFYING CERTAIN SUPERFUND RESOURCES

All deobligated Superfund funds that are recertified will be returned to the RPIO from which the obligation originated, unless otherwise noted below.

1) Superfund Remedial And Removal Program

This guidance addresses deobligations of all appropriated resources associated with the “Superfund: Remedial” program/project (i.e., Remedial Program) originating from the Pipeline Operations, Remedial Action, (old) Remedial, (old) Site Characterization, and (old) Other Response allowances and the “Superfund: Emergency Response and Removal program/project,” (i.e., Removal Program) originating from the Removal Action and Removal Support allowances.

- (a) **For the Remedial Program**, this policy requires that 75 percent of regional Remedial Program deobligations, excluding appropriate exceptions (see below), be recertified to the National Remedial Pool (Budget Organization Code 9R, PRC Code 302DD2).
- (b) **For the Removal Program**, this policy requires that 75 percent of regional Removal Program deobligations, excluding appropriate exceptions (see below), be recertified to the National Removal Pool (Budget Organization Code 9R, PRC Code 302DC6).

OSWER will primarily reprogram these resources back to the Regions to fund new and on-going construction work. Regions will retain the flexibility to use the remaining 25 percent of the Remedial or Removal Program deobligations to fund Remedial or Removal Program activities, excluding fund-financed remedial action starts, unless approved by OSWER. Exceptions to this policy must be approved by OSWER and include, but are not limited to:

- Shifting site-specific resources from expiring contracts (*including expiring task orders under indefinite delivery/indefinite quantity contracts*) /cooperative agreements/IAs to new agreements for the same activity at the same site;

- Consolidating cooperative agreement resources to the same recipient under a block agreement;
- Shifting ongoing work to new contractors due to conflict of interest; or
- Using resources to satisfy a 106(b) petition.

2) Superfund Remedial and Removal Resources within Cooperative Agreements across Site Projects

The Superfund program recognizes the unique nature of Remedial Program work conducted through cooperative agreements. OSWER policy requires Regions to obligate Remedial Action Site Allowance resources site-specifically (with the exception of Five Year Reviews) within cooperative agreements, and encourages for tracking purposes, but does not require, Regions to obligate other resources for other actions site-specifically. Thus, deobligated Remedial Action Site Allowance (and equivalent) Superfund resources that are recertified and reobligated in the same budget fiscal year are subject to the 75/25 percent split for the National Remedial Pool. Amendments to cooperative agreements that shift other resources (i.e., Pipeline Operation Site Allowance resources) among sites and/or activities (i.e., only site project account code changes) are not subject to the deobligation and recertification requirements of this guidance.

Deobligations and recertifications resulting from Removal Program work conducted through cooperative agreements are subject to the same processes and procedures as the Remedial Program.

3) Superfund Special Account Reclassifications

Reclassification is the process by which special account resources are applied to previous expenditures of Superfund appropriated resources, essentially deobligating the appropriated resources and making them available for recertification.

In FY 2010, a 75/25 percent split will apply to recertification amounts greater than \$1 million in the Superfund Remedial and Removal program/projects (or equivalent) resulting from special account reclassifications. For each recertification request resulting from a special account reclassification, the following applies:

- The amount less than or equal to \$1 million will be returned to the RPIO from which the reclassified resources originated;
- A 75/25 percent split for the Superfund Remedial or Removal national pools will be applied to the amount greater than \$1 million. The RPIO from which the reclassified resources originated will retain \$1 million plus 25% of the amount above \$1 million;
- OSWER must concur with all proposed uses of recertified resources resulting from a special account reclassification for removal and remedial funds.

The appropriate OSWER Headquarters program office will allow waivers from this guidance on a case-by-case basis where the Region can demonstrate the exceptional nature of the circumstance. Attachments II and III provide additional information regarding the necessary steps to recertify Superfund resources made available as a result of special account reclassifications.

All appropriated Superfund resources made available as a result of special account reclassification in all other Superfund program/projects and applicable sub-program/projects will be recertified to the RPIO from which the reclassified resources originated. Consistent with Agency guidance, these resources must be recertified to the same program/project (or equivalent) and, if applicable, sub-program/project. The recertification must also include appropriate Headquarters program office concurrence regarding the use of Superfund appropriated funds made available due to a reclassification.

This guidance for special accounts will be reviewed for FY 2011 to ensure its continued practicality and effectiveness in meeting national priorities. For additional information on the timing and use of special accounts, please refer to the joint OECA and OSWER memorandum dated September 28, 2001, entitled: "Special Accounts: Guidance on Key Decision Points in Using Special Accounts Funds."⁵

4) Superfund State Cost Share

Any appropriated Superfund Remedial or Removal funds deobligated by applying state cost share proceeds to previous site expenditures will be subject to the 75/25 percent split for the respective national pools. All other program/project resources will be returned to the RPIO that initiated the deobligation.

Because of reporting concerns, KV transactions should not be used to adjust Superfund expenditures paid in advance of receipt of state cost share proceeds. KV transactions should only be utilized for special account reclassifications. Instead, Standard Vouchers (SV) should be used to adjust for state cost share proceeds. For an explanation of this adjustment process and requirements, please refer to Comptroller Policy Announcement No. 93-02 "Policies for Documenting Agency Financial Transactions."⁶ In addition, RPIOs may contact Iantha Gilmore at 202-564-7654 or Tina Van Pelt at 202-564-4984 of the Office of Financial Management for assistance.

5) Superfund Brownfields

Although the Brownfields program is funded by the EPM and STAG appropriations, this program still utilizes Superfund dollars through existing extramural instruments established prior to the implementation of the Brownfields law. The procedures for deobligations and requests for 100 percent recertification of Superfund dollars previously obligated for Brownfields cooperative agreements, Interagency Agreements (IAs), and other extramural instruments will be handled on a case by case basis by the Office of Brownfields and Land Revitalization (OBLR), in consultation with the Office of General Counsel (OGC) and the Office of Budget (OB). For additional information on Brownfields related recertification, see the "FY 2009 Recertification Policy for the Office of Solid Waste and Emergency Response's (OSWER) Brownfields Program" Memorandum, dated November 9, 2009.⁷

In cases where a determination is made that the Brownfields Superfund deobligated

⁵ Guidance is available at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/key-point-mem.pdf>.

⁶ This policy is available at <http://intranet.epa.gov/ocfo/policies/policy/pa93-02.txt>.

⁷ The policy can be found at http://intranet.epa.gov/swernbrn/bf_Budget.htm.

resources will be recertified for a purpose other than the BCRLF 104(d) and 311(b) agreements as a “transitioned” RLF agreement, OSWER will primarily reprogram these resources to fund new and on-going Remedial construction work. Such redirected funds are subject to the 75/25 split and the applicable reprogramming guidelines.

6) Superfund Federal Facility Program

All recertified Federal Facility funds will be returned to the RPIO which initiated the deobligation. If a Region does not have an immediate need for recertified funds it should inform Marie Bell (bell.marie@epa.gov), Office of Federal Facilities Restoration and Reuse, so that these funds can be directed to another Region or to Headquarters.

7) Superfund Homeland Security

All recertified Homeland Security funds will be returned to the RPIO which initiated the deobligation. All deobligations and recertifications must identify any relevant sub-program project codes in the “To/From” section of the IFMS document. Reminder: Homeland Security funds **can not cross sub-program/projects**. If a Region does not have an immediate need for recertified funds, it should inform Lisa Guarneiri or Dana Stalcup, Office of Emergency Management, so that these funds can be directed to another region.

8) Superfund Enforcement/Federal Facilities Enforcement

All recertified Superfund Enforcement or Federal Facilities Enforcement program project funds will be returned to the RPIO which initiated the deobligation. If a Region does not have an immediate need for recertified Superfund Enforcement or Federal Facilities Enforcement funds, it should inform Alice Ludington, Office of Site Remediation Enforcement (Ludington.Alice@epa.gov) or Catherine Lucas (Lucas.Catherine@epa.gov), Federal Facilities Enforcement Office, respectively, so that these funds can be redirected to another Region or Headquarters.

E. CONTACT INFORMATION

For questions or program-specific recertification issues, please contact the following:

Superfund Remedial (OSWER):

Kevin Hollingsworth, Office of Superfund Remediation & Technology Innovation
Amy Vandenburg, Office of Superfund Remediation & Technology Innovation

Superfund Removal (OSWER):

Lisa Guarneiri, Office of Emergency Management
Dana Stalcup, Office of Emergency Management

Superfund Federal Facilities (OSWER):

Marie A. Bell, Office of Federal Facilities Restoration and Reuse

Enforcement (OECA):

Alice Ludington, Office of Site Remediation Enforcement
Catherine Lucas, Federal Facilities Enforcement Office
John M. Warren, Office of Enforcement and Compliance Assurance

Superfund Brownfields (OSWER):

Juanita Standifer, Office of Brownfields Cleanup and Land Revitalization
Derrick Brown, Office of Brownfields Cleanup and Land Revitalization

LUST (all NPMs):

Lynn DePont, Office of Underground Storage Tanks

Oil Spill Response (all NPMs):

Lisa Guarneiri, Office of Emergency Management
Dana Stalcup, Office of Emergency Management

For questions regarding Superfund, LUST or Oil Spill Response deobligation recertification procedures, please call Patricia Wingfield at (202) 564-6678 or Laura Ripley at (202) 564-1582 of OCFO/OB. In addition, please feel free to call Sue Priftis at (202) 566-1901 of OSWER/ARMS.

Attachment I: Instructions for Requesting Recertification of Deobligations for Superfund, LUST, and Oil Spill in the FY 2010 Recertification Database

Attachment II: Required Process Steps for Special Account Reclassification Recertification of Superfund Resources

Attachment III: Sample Special Account Reclassification Recertification Reprogramming in Agency's Financial System.

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Regional Comptrollers
Regional Budget Officers
Superfund Budget Coordinators
Regional Brownfields Coordinators