

CHAPTER 6 - SUPERFUND INTERAGENCY AGREEMENTS

1 . OVERVIEW. An Interagency Agreement (IAG) is a written agreement between Federal agencies under which goods and services are provided. The Superfund program uses IAGs to request certain Federal agencies to assist with site cleanups and associated activities and to provide ongoing support or services. The IAG specifies the services required and identifies the method of payment. The procedures for administering Superfund IAGs are similar to those used for other EPA agreements. (See 2550C Chapter 4 and EPA's Interagency Agreement Policy and Procedures Compendium for general information on IAGs.)

2 . CLASSES OF IAGs. IAGs are classified by the direction that funds flow in and out of the Agency. There are, therefore, two classes of IAGs: those in which funds flow into EPA from another agency and those in which funds flow out to another agency from EPA.

There are four basic categories of IAGs involving funds transfers: Reimbursement IAGs, Allocation Transfers into EPA, Disbursement IAGs, and Allocation Transfers to another agency. Figure 6-1 illustrates the four categories of EPA IAGs. This chapter focuses on the two categories in which funds flow out of EPA to another agency, Disbursement IAGs and the Allocation Transfers to another agency (hereafter referred to as Transfer IAGs), since these are the most common categories of IAGs used by the Superfund program.

a . DISBURSEMENT IAGs. Disbursement Agreements are ones in which another Federal agency provides goods or services to EPA. This category of IAG is similar in concept to obtaining goods or services from a contractor. These agreements provide for payments to other Federal agencies for actual expenses they incur in the performance of Superfund work. EPA pays the other agencies either by advance payment or by repayment. In other words, EPA either pays the other agency before goods and services are received, or EPA repays the other agency after the goods and services have been provided.

There are two types of Disbursement IAGs: those which cover site-specific work and those for non-site-specific work, or "ongoing responsibilities" Disbursement IAGs. Examples of agencies with whom Superfund has Disbursement Agreements are the U.S. Coast Guard (USCG), the U.S. Army Corps of Engineers (USACE), and the Internal Revenue Service (IRS).

b . TRANSFER IAGs. In the case of Transfer IAGs, obligational authority is transferred to another Federal agency from EPA. The funds are transferred to the other agency from an EPA allowance via the Comptroller's Transfer Allocation Account. The transfer allocation mechanism is similar to the Comptroller providing allowances to EPA program offices to carry out specific functions.

EPA transfers funds based on a scope of work for a specified time period or on a site-by-site basis. The other agency submits status reports periodically to the EPA Superfund Branch of the Budget Division and to the appropriate Superfund program office and submits monthly financial reports to the Financial Reports and Analysis Branch (FRAB), Financial Management Division.

There are two types of Transfer IAGs: those which cover site-specific work and those for non-site-specific work, or "ongoing responsibilities" Transfer IAGs. An example of an agency with whom Superfund has a Transfer IAG is the Federal

Emergency Management Agency.

3. **MEMORANDUM OF UNDERSTANDING.** EPA also enters into "non-funded" IAGs, i.e., a Memorandum of Understanding (MOU). An MOU is a written document between EPA and another Federal agency which formally specifies the responsibilities of both agencies pursuant to CERCLA, as amended by SARA, Executive Order 12580 and the National Contingency Plan. This formal agreement also establishes policies and sets the framework for funded IAGs. An MOU includes a statement of the purpose of the agreement and the scope of activities to be performed. For funded IAGs to be entered into pursuant to the MOU, it also provides a description of allowable costs and accounting procedures.

4. **ROLES AND RESPONSIBILITIES.** This section covers the financial roles and responsibilities for Disbursement and Transfer IAGs. Primary roles and responsibilities for each of the two types of Disbursement IAGs are further illustrated in Exhibits 2550D-6-1 and 2550D-6-2 at the end of this chapter.

a. **REGIONAL PROGRAM OFFICE.** Negotiates and prepares site-specific IAG packages.

(1) **ON-SCENE COORDINATOR (OSC).** For removals, prepares IAG funding package, reviews/certifies vouchers for site-specific Disbursement IAGs, establishes and maintains official site files.

(2) **REGIONAL PROJECT OFFICER (RPO)/REMEDIAL PROJECT MANAGER (RPM).** For remedial activities, prepares the IAG funding package, reviews/certifies vouchers for site-specific Disbursement IAGs, establishes and maintains official site files.

b. **REGIONAL ADMINISTRATOR (RA).** Authorizes set aside of funds for Disbursement IAGs on the Document Control Register (DCR); reviews and approves the site-specific IAGs or delegates this function.

c. **REGIONAL GRANTS OFFICE.** (May be part of the Regional Management Division.) For IAGs issued by the region, obtains IAG number from Grants Administration Division-HQ; processes IAG; submits IAG to other agency for approval; distributes signed IAG; provides the administrative oversight for the IAG; may review and cosign vouchers.

d. **REGIONAL MANAGEMENT DIVISION.** Assigns accounting data to regional Disbursement IAGs, commits funds in the DCR and enters commitment into the Financial Management System (FMS).

e. **OFFICE OF EMERGENCY AND REMEDIAL RESPONSE/FUNDS CONTROL CENTER (OERR/FCC).** For OERR IAGs, prepares funding packages, processes IAGs, enters commitments into FMS and reviews vouchers for ongoing responsibilities IAGs and USCG-lead removals. For non-OERR IAGs, these functions are performed by the relevant program office.

f. **HQ GRANTS ADMINISTRATION DIVISION (GAD).** Issues IAG identification numbers for all IAGs; processes and awards Headquarters and USCG-lead removal IAGs; enters all IAG data into

Grants Information Control System (GICS); performs closeout for all IAGs.

g. SERVICING FINANCE OFFICE (SFO) - Cincinnati. For Disbursement IAGs, records obligations and processes vouchers for payment; performs financial closeout of all IAGs.

h. SUPERFUND BRANCH/BUDGET DIVISION/OFFICE OF THE COMPTROLLER. For Transfer IAGs, prepares memorandum requesting the transfer of required funds; Budget Officer signs the memorandum to authorize the transfer of funds and sends it to the FRAB for execution of the transfer.

5. DISBURSEMENT IAG FINANCIAL PROCESSES. Superfund officials prepare IAGs to pay other agencies for costs incurred at Superfund sites and for non-site-specific costs.

a. SITE-SPECIFIC IAGs. These agreements are for payment to other Federal agencies for work performed at a specific removal or remedial site. They are typically initiated, negotiated, approved, awarded and managed in the regions. The exception is for USCG-lead removals. In such cases, Headquarters negotiates, approves, awards and manages the IAG.

(1) COMMITMENT OF FUNDS. The OSC or RPO is responsible for determining whether assistance from another Federal agency is needed. The Regional Project Officer prepares the IAG funding package, consisting of a Commitment Notice (CN), a transmittal memorandum (optional), EPA Form 1610-1, which is the IAG itself (see Exhibit 2550D-6-3), and the Regional Superfund IAG Decision Memorandum, for verifying legal authority for the IAG (see Exhibit 2550D-6-4). The Regional Grants Office staff performs a legal and administrative review of the funding package. The Regional Management Division adds accounting data and enters the commitment in the Document Control Register as well as into FMS.

(2) OBLIGATION OF FUNDS. Following pre-validation of the commitment, the Regional Grants Office obtains an IAG number from Headquarters GAD, who inputs the IAG, data into GICS. The Regional Administrator or delegated staff signs the IAG and the Regional Grants Office sends the signed IAG to the other agency for signature. The IAG is obligated once the other agency has signed it. The Regional Grants Office distributes the executed IAG to the OSC/RPO, the GAD and to the SFO-Cincinnati, where the obligation is recorded in FMS.

(3) REVIEW AND CERTIFICATION OF VOUCHERS. For site-specific IAGs, the region will authorize repayment based on vouchers. For USCG-lead removals, see section (4) below. The performing agency submits vouchers to the SFO-Cincinnati, who forwards them to the region. The OSC or RPO is responsible for reviewing and certifying the vouchers. The Regional Grants Office may also review and cosign the vouchers. Both the voucher and the certification form are then returned to the SFO-Cincinnati for processing and payment.

(4) USCG-LEAD REMOVALS. IAGs with the USCG for costs incurred at USCG-lead removal sites are processed and funded at Headquarters under a unique set of procedures. USCG OSCs contact the OERR/FCC by certified mail, within 72 hours of initiating a CERCLA response, to request preparation of IAG documentation.

OERR/FCC prepares the IAG package for OERR review and approval/certification. GAD reviews and approves the package and transmits the IAG package to USCG for approval. GAD then distributes the signed IAG to the Headquarters program offices and the SFO-Cincinnati. The USCG submits vouchers and completed OSC certification forms to the SFO-Cincinnati for repayment.

b. **ONGOING RESPONSIBILITIES IAGs.** Under this type of IAG, EPA repays the appropriate Federal agency (e.g., USCG or USACE) for general costs incurred in maintaining response capabilities, such as staff salaries, training, guidance development, maintenance of the National Response Center and for management and technical support. These IAGs are initiated, negotiated, and obligated in Headquarters.

(1) **COMMITMENT OF FUNDS.** The designated agency consults with the appropriate HQ program office to develop a scope of work and budget for each new fiscal year. Typically, the designated agency submits a formal workplan. In some cases, the Headquarters office of the designated agency and EPA Headquarters informally work together to develop a budget. This budget or workplan forms the basis for the development and negotiation of the final IAG funding package. The responsible program office prepares the IAG funding package which includes Form 1610-1, the Commitment Notice (Form 2550-9), the Decision Memorandum and an optional transmittal memorandum. The program office certifies the availability of funds and enters the commitment into the DCR and FMS. Following program review, the funding package is submitted to GAD for administrative review and approval, assignment of the IAG number and entering of IAG data into GICS. GAD then pre-validates the commitment in the FMS.

(2) **OBLIGATION OF FUNDS.** After signature by the Chief of the Grants Information and Analysis Branch, GAD submits the IAG to the designated agency for review and approval. Signature by the designated agency obligates the funds. GAD distributes copies of the signed IAG to OERR/FCC and the SFO-Cincinnati. The SFO-Cincinnati records the obligation in FMS.

(3) **PAYMENT OF VOUCHERS.** Agencies submit vouchers and financial reports on a quarterly or monthly basis. OERR/FCC and the responsible HQ program office review the vouchers and authorize payment. Authorized vouchers are sent to the SFO-Cincinnati for payment and entry into FMS.

6. **TRANSFER IAG FINANCIAL PROCESSES.** Transfer IAGs transfer obligational authority from EPA to the designated agency.

Obligations and payments are made by the other agency and are reported monthly to EPA. Funds are transferred to the other agency by EPA periodically, based on a quarterly outlay projection or an informal request submitted by the other agency to EPA. As noted earlier, there are two types of Transfer IAGs:

- o Site-Specific IAGs
- o Ongoing Responsibilities IAGs.

The transfer of funds process and financial monitoring process are the same for both of these types of IAGs. The two types differ in the initiation process. The main difference is that site-specific IAGs are typically initiated, negotiated, awarded, and managed in the regions, and ongoing responsibilities IAGs are typically initiated, negotiated, awarded, and managed in Headquarters.

For ongoing responsibilities IAGs, the appropriate Headquarters program office initiates the IAG. After developing a preliminary cost estimate with the other agency, the Superfund program office prepares the funding package which includes Form 1610-1, an optional transmittal memorandum and the Decision Memorandum. The Superfund program office reviews and approves the IAG funding package. GAD signs off on the package and enters the IAG data into GICS. Transfer IAGs data are not recorded as commitments or obligations in FMS. Upon initiation of a Transfer IAG, the program office must contact the Budget Formulation and Control Branch of the Budget Division so that the program's allowance may be reduced to reflect the transfer to the receiving agency.

c. **FINANCIAL MONITORING.** The other agencies are required to submit: 1) monthly reports via SF133, "Budget Execution," on obligations and expenditures during the period to EPA's Financial Management Division and 2) periodic status reports to the IAG Project Officer and the Superfund Budget Branch. The IAG may also require the other agency to maintain records and documentation by site and submit them to EPA upon request.

- a. Interagency Agreement Policy and Procedures Compendium, Grants Administration Division, OARM, January 1984
- b. RMDS 2550C, Chapter 4, "Interagency Agreements"
- c. Regional Processing of Superfund Interagency Agreements, Office of Program Management, OERR, July 6, 1987 (DRAFT)
- d. Superfund Financial Management and Recordkeeping Guidance for Federal Agencies, Superfund Accounting Branch, June 30, 1987 (DRAFT)

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INTERAGENCY AGREEMENT/AMENDMENT (Continued)
ATTACHMENT B

A. CONDITIONS FOR PROGRAM CONTINUITY

1. Cost Documentation Requirements

EPA acting as manager of the Hazardous Substances Superfund requires current information on CERCLA response actions and related obligations of CERCLA funds for these actions. In addition, CERCLA, as amended by SARA, authorizes EPA to recover from responsible parties all government costs incurred during a response action. In order to help assure oversight and successful recovery of CERCLA funds, both the USACE and EPA have responsibilities under this agreement.

The USACE accounting system reports must be supported by site-specific documentation. The USACE will organize and retain for ten years after the completion of the project or until transferred to EPA for permanent retention site-specific documentation (e.g., vouchers, billing statements, evidence of payment, audit reports) of costs as follows:

(a) Internal Direct Costs

- Payroll - timesheets or timecards identified by site and time period and signed by employee and supervisor
- Travel - travel authorizations, local travel vouchers, traveler's reimbursement vouchers, carrier bills (including airline tickets) government owned vehicle bills, and all appropriate hotel, car rental, etc., receipts.
- Evidence of purchase of materials, equipment and supplies
- Property inventory listing of all non-expendable property with a unit acquisition cost of \$1,000 or more, and with a life expectancy of one year or more
- Any other direct costs not included in the above categories

(b) Indirect Cost Documentation

Indirect Cost Documentation Standards - The USACE certifies: 1) that any indirect costs included in billings to EPA represent, in accordance with GAO principles indirect costs that would not have been otherwise incurred by the USACE, or 2) that explicit congressional authority exists for charging other than the incremental costs of performance. If an audit determines that any direct or indirect costs charged to EPA are unallowable, EPA will be notified immediately following the resolution of the audit and EPA will be credited with those costs.

2. In the event of a cost recovery action, within three weeks from the date of a request from EPA or the

Department of Justice (DOJ), the USACE will provide to EPA or DOJ site specific costs and copies of the back up documentation which support those costs. The USACE will provide EPA with a contact for obtaining such

sits specific accounting information and documentation. This cost information and documentation must also be available for audit or verification on request of the Inspector General.

- 3 . The USACE will require its contractors to retain site-specific documentation for a period of 10 years after final contract payment.
- 4 . USACE personnel and contractors shall have the appropriate safety training and be involved in a medical monitoring program as specified in 29 CFR Part 1910 (51 CFR 45663 - 45675) and section 125(e) of the Superfund Amendments and Reauthorization Act (SARA).

B . PROJECT SPECIFIC CONDITIONS

- 1 . The USACE will provide weekly telecon construction/design status update(s) to the Regional Project Manager (RPM).
- 2 . The USACE will provide the USEPA monthly progress reports containing:
 - (a) Site name and IAG number
 - (b) Progress made this reporting period
 - (c) Problems resolved
 - (d) Anticipated problems and recommended solutions
 - (e) Deliverables submitted
 - (f) Upcoming events/activities
 - (g) Schedule
 - (h) Key personnel changes
 - (i) Subcontracting
 - (j) Contract laboratories
 - (k) Summary of all change orders and claims
 - (l) Summaries of all contacts with the local community, public interest groups or other parties
 - (m) Status of contingency fund to date (n) Percent complete
 - task by task
 - total project (o) Budget
 - amount this reporting period (this must match the lump sum on the SF-1080 submitted to the USEPA/Cincinnati Financial Management Center)
 - task by task percent expended
 - total project budget expended (cumulative to date)
 - four month expenditure forecast
 - (p) Oversight/Management budget (personnel, travel and indirect costs)
 - amount this reporting period
 - budget expended (Cumulative to date)
 - four month expenditure forecast

Monthly Progress Reports will be submitted, within 10 days after the end of the month, to the RPM and to the Chief, Design and Construction Management Branch (WH-548E), USEPA, Washington, D.C. 20460.

- 3 . Prior to contract award for a re-medial action project, the USACE shall submit to the USEPA RPM a Quality Assurance Management Plan.
- 4 . All project deliverables shall be reviewed by appropriate USACE and USEPA personnel within 30 days. Shortened

time frames may be appropriate in cases of expedited schedules.

5 . The USACE shall have final approval authority for Quality Assurance Project Plans (QAPPs), Sampling and Analysis Plans (SAPS) which reflect environmental sampling and laboratory analysis, and Health and Safety Plans (HASPS) with USEPA concurrence.

6 . The USACE shall have final approval authority for RD/RA bids, shop drawings and contract modifications (with the 20% contingency fund limitation).

7 . The USACE shall schedule and invite (with a two week notice) the USEPA RPM to participate in contractor meetings in which project scoping and/or progress is discussed.

8 . The USACE shall invite the RPM to participate in the contractor selection process

9 . The USACE shall provide on-site inspection of contractor performance 50-100% of the time. The USACE will keep a daily log of all activities occurring on-site and submit them to the RPM upon request.

10 . Upon request, the USACE shall, in a timely manner, submit to the RPM all final negotiated contracts and contract modifications with budget information.

C . BILLING CONDITIONS

1 . The USACE will submit a Request for Reimbursement (SF 1080) and a copy of the Monthly Progress Report to the USEPA Financial Management Center, Cincinnati containing as appropriate:

- (a) USACE costs by budget category (see item 21, page 2) identified by the site, site specific account number and IAG number
- (b) Copies of contractor invoices paid by USACE, identified by the site, contract number, and billing period
- (c) The USACE contract project officer's certification of contractor performance (ENG Fors 93)

2 . A copy of the SF 1080 with backup documentation must also be submitted to the RPM along with the Monthly Progress Report.

D . USEPA INVOLVEMENT

USEPA's substantial involvement in this IAG will include:

1. Reimbursement to the Reclamation contingent upon:
 - certification of the SF 1080 by the RPM.
2. Retention of full or partial title to all property acquired with Hazardous Substances Superfund monies. USEPA Will provide the Reclamation with property disposition instructions at the end of the project.
3. Indemnification of USACE contractors for extraordinary risk shall be provided by EPA to the extent that CERCLA funds are available in accordance with EPA/USACE MOU dated _____.
- 4.

REGIONAL SUPERFUND DECISION MEMORANDUM

SUBJECT: Superfund Interagency Agreement with the (specify other
Federal agency) for (specify purpose) at (specify site
name, city, state) site

TO: Regional Administrator, Region ____
FROM: _____

I recommend that you, as the EPA Action Official, approve and sign the attached Interagency Agreement (IAG). Under the IAG, the (specify other Federal agency) will provide EPA with (specify activities) _____ at the (specify site name, city, state,) site.

The (specify other Federal agency) will provide specialized contract support services to EPA. It will also utilize procurement extramural agreements and State Cooperative Agreements to carry out the Scope of Work.

The IAG's project (site) activities and provisions are in compliance with the following statutory and EPA policy requirements:

- 1) Statutory - Economy Act of 1932, as amended (31 USC 1535) - CERCLA (42 USC 9601FF)
 - SARA (42 USC 9601-9675)
- 2) Policy - Executive order 12580
 - EPA IAG Policy and Procedures Compendium
 - Chapter 51t EPA Assistance Administration Manual
 - SCAP
 - Memorandum of Understanding

NOTE: If Decision Memorandum is for an "increase-in-funds" amendment, add the following paragraph:

The increase in funds will cover costs for additional site activities related to the original Scope of Work under the IAG. These activities are necessary to maintain the progress towards the successful completion of the SCAP.