

I. PURPOSE

Section 122(b) (3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9622(b)(c), authorizes the U.S. Environmental Protection Agency to retain and use funds received through an agreement to fund response actions contemplated in the agreement. The EPA receives funds under CERCLA 122(b)(3) through payments from potentially responsible parties to address past and/or future response costs. The EPA retains these funds in site-specific accounts called “special accounts.”

Special accounts are site-specific, interest-bearing sub-accounts within the Hazardous Substance Superfund Trust Fund. The EPA establishes a special account only if there is future work at a site and expects to incur future costs. Funds deposited in a special account are considered a permanent appropriation and may be used by the EPA without further appropriation from Congress. Once funds are deposited in a special account and supporting reimbursable authority has been requested and issued, the EPA may begin obligating and disbursing funds to conduct and finance response actions at the site in accordance with the supporting settlement agreement.

The EPA manages a large number of special accounts which constitute a significant source of funding within the Superfund program. The EPA seeks to maximize the use of special account resources to preserve appropriated funds for Superfund sites without alternative sources of funding. When special account resources are no longer needed at the site, the EPA identifies opportunities for reclassification or to return them to the general portion of the Trust Fund.¹

The use of a special account to fund response actions is determined by the settlement agreement under which the funds were received. In situations where the settlement designates the funds for a more specific activity (e.g., disbursement to a potentially responsible party or to fund a specific operable unit), special account funds must be used for purposes of carrying out the settlement agreement.

II. AREAS OF RESPONSIBILITY

This section provides a broad overview of areas of responsibility. Particular regional office responsibilities may vary depending upon how a region is organized and operates.

A. Office of Regional Counsel /Legal Enforcement Office

- 1.** Works with the Regional Program Office to determine if a special account should be established for a particular settlement agreement.
- 2.** Develops settlement language for placing funds in special accounts.
- 3.** Works with RPO to determine how the resolution of the settling PRP’s liability for past and/or future costs should be allocated and enumerated in the ten-point settlement memorandum and whether the settlement funds should be deposited in a special account or deposited in the Trust Fund as a cost recovery.

¹ The general part or general portion of the Trust Fund resides at Treasury and is not available to the EPA without appropriation from Congress.

4. Consults with the RPO as necessary concerning any issues arising from the interpretation of the settlement agreement, including the use of special account resources in a manner consistent with the agreement, applicable law and guidance.
5. Coordinates with the RPO on any settlements that provide for the disbursement of funds from a special account to a PRP.
6. Coordinates with the RPO and the Regional Finance Office staff to actively manage special accounts throughout the lifetime of the account.
7. Provides the RFO, RPO and/or the Cincinnati Finance Center with a copy of the settlement agreement within five working days of receipt.

B. Regional Program Office

1. Assists the ORC/LEO in developing appropriate settlement language when it is not possible to use the model settlement language.
2. If requested by the RFO notifies the RFO of settlements containing special account language via email when the draft settlement language is submitted.
3. Works with the ORC/LEO to determine whether the settlement funds should be deposited in a special account or deposited in the Trust Fund.
4. Coordinates with the ORC/LEO on any settlements that provide for the disbursement of funds from a special account to a PRP.
5. Determines uses of special accounts to support site work.
6. Requests and initiates reclassifications and transfers to the Trust Fund when appropriate.
7. Requests and initiates special account close-outs with the ORC/LEO when appropriate.
8. The lead region for Operations and Administration participates on the Superfund Special Accounts Senior Management Committee which is responsible for the EPA's management and use of special accounts.

C. Regional Finance Office

The term RFO refers to the organization that performs financial management and accounting functions. Financial management functions are organized somewhat differently within each regional office. In some regions these activities are performed in other offices.

1. Ensures the CFC receives a copy of all bankruptcy and stipulated penalty notices and that CFC receives all administrative orders on consent sent from the Regions. Prepares and transmits to CFC the Superfund Accounts Receivable Standard Control Form for all of the above. Assigns accounting lines for special account placement. (If mutually agreed, the RPO may handle this function)
2. Responds to CFC requests for additional information related to consent decrees received directly from DOJ within three business days.
3. Reconciles and monitors special account transactions and balances with regional special accounts reports.
4. Assists the RPO in identifying trust fund expenditures to be reclassified.

5. Prepares reclassification entries (i.e., KV transactions) to be processed by the CFC in the agency's financial management system.
6. Monitors special account negative balances by fund code and initiates corrective action where necessary.
7. Assists the RPO in preparing close-out of special accounts; performs financial reconciliation of special accounts identified for close-out.
8. Participates as needed on the Superfund Special Accounts Senior Management Committee.

D. Office of General Counsel

Provides legal advice concerning the EPA's authority to establish, manage and use special account funds.

E. Office of Superfund Remediation and Technology Innovation, Office of Solid Waste and Emergency Response

1. Manages and oversees regional plans and use of special accounts.
2. Develops programmatic policy and guidance related to the management and use of special accounts.
3. Provides consultation on region's requests for reclassifications and transfers to the Trust Fund.
4. Provides site-specific programmatic advice to the regions on the use of special accounts.
5. Coordinates with other OSWER program offices, as appropriate.
6. Chairs the Superfund Special Accounts Senior Management Committee.

F. Office of Site Remediation Enforcement, Office of Enforcement and Compliance Assurance

1. Develops model settlement language for settlement documents with input from DOJ and affected Headquarters and regional offices.
2. Develops programmatic policy and guidance for settlement agreements and special accounts.
3. Reviews regional plans and use of special accounts to ensure these are consistent with existing and planned settlements and guidance.
4. Provides case-specific legal support to the regional ORC/LEO on settlement negotiations and the use of special accounts.
5. Reviews prior written approval requests when a region seeks to enter into a settlement agreement that provides disbursement from a special account to a PRP.
6. Participates on the Superfund Special Accounts Senior Management Committee.

G. Cincinnati Finance Center, Office of Financial Services, Office of the Chief Financial Office

1. Establishes all special accounts upon receipt of funds as appropriate and as instructed by the RPO and/or RFO. The CFC does not create multiple accounts at a site unless instructed by the RPO or RFO.
2. Works with regional contacts to assign unique special account numbers when requested.
3. Records accounts receivable in the agency's financial management system within three workdays of receipt of supporting settlement documents (e.g., entered CDs/AOCs) from the region.
4. Records payments within one day of receipt and notifies the appropriate office(s).
5. Records settlement payments within one workday of receipt and closes out corresponding accounts receivable in the agency's financial management system.
6. Occasionally receives payments via the Intra-Governmental Payment and Collection system from Headquarters; records these payments in the agency's financial management system and notifies the appropriate office(s).

7. Records monthly interest rates in the special account interest calculation program and ensures these amounts are reflected for each special account.
8. Prepares and records quarterly entries in the agency's financial management system to reflect the interest applied to each special account.
9. Monitors negative available balances in special accounts each quarter and works with the RPO or RFOs to resolve as appropriate.
10. Ensures the special accounts status reports are accurate and available for regional and headquarters staff.
11. Works with OSRE and the OSRTI to ensure that special accounts financial information from the agency's financial management system can be loaded into the Comprehensive Environmental Response, Compensation and Liability Information System /Superfund Enterprise Management System.²
12. Processes all special account reclassifications when requested by the RPO or RFO.
13. Transfers receipts to the Trust Fund, reduces interest liability owed from the Trust Fund and closes special accounts when requested by the RPO or RFO.

14. Participates on the Superfund Special Accounts Senior Management Committee.

15. For Consent Decrees received directly from DOJ, sends requests to regional POC for additional information, as required.
16. Works with regional POC on enforcement follow-up action to enforce the collection of delinquent accounts receivable by the Department of Justice.

H. Office of Budget, OCFO

1. Requests the annual apportionment of reimbursable authority from the Office of Management and Budget.
2. Once OMB grants reimbursable authority, this authority is housed in reserve and is maintained and monitored by the OB at a national level.
3. Approves, processes and issues reimbursable authority requested by the Regional Budget Offices via reprogramming requests submitted through the agency's financial management system.
4. Tracks the status of reimbursable authority balances at the fund level.
5. Recertifies prior year Superfund appropriated resources that are deobligated as a result of special account reclassifications.
6. Participates on the Superfund Special Accounts Senior Management Committee.

² CERCLIS, the Superfund program's site and milestone database, is being re-engineered and will become part of the Superfund Enterprise Management System.

I. Regional Budget Office

- 1.** Works cooperatively with the RPO to determine the amount of reimbursable authority needed for special accounts and requests those amounts via a reprogramming request to the OB. The RPO and RBO ensure that the request for reimbursable authority does not exceed the amount of funds available by fund type (e.g., TR2, TR2A and TR2B).
- 2.** Notifies the RPO and RFO upon receiving an allowance from the OB that confirms the issuance of reimbursable authority.
- 3.** With assistance from the RPO, analyzes reimbursable authority balances during the fourth quarter of each year to determine the amount of authority needed for the new fiscal year.

J. Office of Financial Management, OCFO

1. Reporting and Analysis Staff

- a.** Identifies and transfers regional Intra-Governmental Payment and Collection System amounts to the CFC if received in RAS from DOJ.
- b.** Develops and establishes general ledger accounts and entries needed to account for special account transactions within the agency's financial management system; reports on the amounts in those accounts and entries as needed.
- c.** At year-end, RAS prepares a Standard Voucher to transfer drawdown activity from Superfund Fund "T" to Superfund Special Account Fund "TR2B" based on Special Account Interest used for the year as determined by the CFC.
- d.** Reports special account interest to the Department of the Treasury, Bureau of Public Debt.

2. Program Costing Staff

- a.** Acts as the subject matter expert in the development of agency financial policy and procedures for the administration and financial management of special accounts.
- b.** Assists RAS with the development of general ledger accounts and accounting models for special accounts as needed.
- c.** Assists OSRTI and OSRE with the development of programmatic special accounts policy and guidance.
- d.** Provides special account interest rates to the CFC on a monthly basis.
- e.** Participates on the Superfund Special Accounts Senior Management Committee.

III. PROCEDURE DETAILS

This section describes procedures to ensure the effective financial management of special accounts. Certain responsibilities may vary depending upon how a region is organized and operates.

A. Settlement Provisions

Settlement agreements and supporting documents may include one or more of the following provisions:

- 1. Settlement Proceeds.** As a general matter, the ORC/LEO advises RFOs and/or the CFC of the payment terms in forthcoming settlement documents with special account provisions (i.e., how much of the settlement amount will be placed in a special account and how much, if any, will be placed in the Trust Fund) before the settlement agreement is finalized. If the intent of the settlement is to have payments for past costs deposited in the Trust Fund and payments for future costs deposited in a special account, the settlement should delineate clearly how much of the settlement proceeds should be allocated to each category.
- 2. Trust Fund Payments.** If a settlement agreement provides a payment provision for past response costs recoverable under CERCLA sections 107, 122(g), or 122(h), these amounts may be deposited by the agency in a special account or the Trust Fund. If deposited in the Trust Fund, the amount deposited will be recorded as a cost recovery under appropriation symbol 68X8145.4 and the Hazardous Substance Cost Recovery fund code. Amounts deposited in the Trust Fund must be appropriated by Congress before they can be used. However, the EPA may retain past cost amounts for placement in special accounts if there is future work remaining at a site. If this is a “cashout” or 122(h) settlement, the costs recovered may include past and future costs. Although the amount of past and future costs to be placed in a special account need not be defined in the settlement agreement, this amount along with the amount of any applicable future costs must be allocated in supporting documentation to the settlement (e.g., the ten-point settlement memorandum prepared by the EPA attorneys).
- 3. Disbursements to PRPs.** Funds held in special accounts may be disbursed to PRPs to reimburse them for response actions they have performed at the site. Special account funds can be disbursed to PRPs only if the PRPs have entered into a settlement agreement with the EPA to perform a response action at the site for which the account was established. Payments will be made to PRPs in accordance with the disbursement provisions defined in the settlement agreement. Funds can be disbursed to PRPs incrementally upon completion of an activity or a series of activities or in a lump sum following the satisfactory completion of all site work.
- 4. Prepayment Provisions.** In most agreements under which a PRP agrees to perform work, the PRP also agrees to reimburse the agency for all the EPA future costs. Future costs include the direct and indirect costs that the EPA incurs for oversight of the PRP’s activities. Regions may, in appropriate cases, negotiate with the PRP to prepay the estimated costs of the first installment of oversight costs under any settlement where the PRP has agreed to perform a response action (e.g., remedial investigations and feasibility studies, remedial design/remedial actions removal actions). This negotiated amount must be stated in the settlement document. Upon completion of the work, any remaining prepaid dollars plus interest earned may be used to reduce the PRP’s last payment for oversight once the EPA has accounted for all of its direct and indirect oversight costs. Annual allocation costs which are non site-specific contractor costs should also be accounted for. It may not be cost-effective to request prepayment of oversight costs where the overall amount of oversight costs is expected to be

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minimal (e.g., less than \$25,000), the duration of the response action will be relatively short (e.g., less than 9 months) or a special account already exists for the site and the EPA can use those funds for oversight costs.³

- 5. Retention of Funds under CERCLA 122(b)(3).** CERCLA 122(b)(3) states that EPA may retain and use all payments received in accordance with the settlement language. This includes any indirect costs collections that were included as part of the settlement negotiations.

B. Transmitting Administrative Settlement Information

Once a settlement agreement has been finalized, the region must provide the CFC with a copy of the settlement agreement within five working days. The settlement agreement will be accompanied by the Superfund Accounts Receivable Standard Control Form which should contain the following information:

- 1.** Name and address of the settling PRP(s).
- 2.** Site name.
- 3.** The EPA Superfund Site/Spill Identification Number as well as the full line of accounting.
- 4.** Where applicable, the exact dollar amount or percentage of settlement to be deposited in a special account and/or Trust Fund.
- 5.** Where applicable, the amount of any premium payment included in the settlement.
- 6.** Where applicable, information identifying the operable unit and/or other discrete response action(s) for which the funds were received and the corresponding dollar amounts.
- 7.** Whether the settlement is a de minimis settlement (an administrative agreement authorized by CERCLA section 122(g), between the EPA and PRPs for a minor portion of response costs).
- 8.** Whether the settlement provides for any payment(s) from the special account to a PRP performing a response action or whether such a payment may be negotiated in a subsequent settlement.
- 9.** Name, telephone number and address of the remedial project manager and enforcement specialist and attorney assigned to the site.

C. Transmitting Judicial (consent decree) Settlement Information. CFC receives consent decrees directly from DOJ. As required, CFC may request additional information from the regional POC via email. The regional POC has three business days from CFC notification to provide requested information. Regions must provide notification (via email) to CFC of all bankruptcy settlements and/or stipulated penalties within five workdays.

D. Establishing Special Accounts ORC/LEOs should work with RPOs to only establish an account if there is future work and the EPA expects to incur future costs.

³ For more information on the prepayment of oversight costs, see "Additional Guidance on Prepayment of Oversight Costs and Special Accounts," dated Dec. 22, 2006, available at this link: <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/spec-acct-oversight.pdf>

1. **Settlements Specify Special Account Information.** Settlement agreements with special account payment provisions specify the amount, in dollars, other financial assets or percentages of either to be paid to, retained and used by the EPA under the authority of CERCLA. To the extent possible, the ORC/LEO should use the model RD/RA consent decree special account language for inclusion in settlement agreements.
2. **Sub-accounts.** Regions may establish multiple special accounts for a site. The RPO may transfer amounts (both principal and interest) from one special account to another as long as the special accounts are for the same site and the settlement agreement permits using the funds in this manner.
3. **CFC Establishes the Special Account.** Collection and deposit of special accounts funds is performed by the CFC. Funds must be collected and deposited to the special account prior to spending.

E. Recording Accounts Receivable and Payments. In accordance with RMDS

2550D, Chapter 14, *Superfund Accounts Receivable and Billings*, upon receipt from DOJ or final signature by the Regional Administrator, the region forwards copies of all settlement documents to the CFC within five workdays for establishment of the corresponding accounts receivable.

- F. Accounts Receivable.** The CFC records an accounts receivable in the agency's financial management system within three working days of receiving settlement documents. The CFC uses the appropriate fund code(s) when recording accounts receivable designated for a special account. The special account fund codes are as follows:
1. **TR2. Non-Federal Special Accounts *Unearned Revenue*.** Represents amounts received under a non-federal cash-out settlement (principal only, excludes late payment interest). This code pertains to collections related to non-federal settlement amounts for costs to be incurred (work to be performed) in the future.
 2. **TR2A. Federal Special Accounts *Unearned Revenue*.** Represents amounts received under a federal cashout settlement (principal only, excludes late payment interest). This code pertains to collections related to federal settlement amounts for costs to be incurred (work to be performed) in the future.
 3. **TR2B. Special Accounts *Earned Revenue*.** Represents amounts for the past cost collections, late payment interest collections from PRPs and interest revenue earned on special account collections that have not been disbursed. This code pertains to collections related to settlement amounts for costs *previously* incurred and includes collections on future response cost (oversight) bills for work performed.

G. Payments

1. The settlement document language instructs PRPs where to remit payments. RAS will transmit all payments received in RAS from DOJ via IPAC to the CFC. The CFC notifies the region as payments are received.
2. The CFC records payments in the agency's financial management system within one day of receipt.
3. If the EPA is negotiating a de minimis settlement with a large number of individual settlement payments, the CFC may hold any payments received prior to the settlement being finalized in an EPA liability account. Once the settlement is finalized, the CFC establishes a receivable and applies these payments to the receivable.
4. If the EPA is negotiating a de minimis settlement with a large number of PRPs, the ORC/LEO may encourage the settling PRPs to appoint a lead PRP to coordinate the collection of payments. This arrangement allows the EPA to receive one check for the full settlement amount and reduces the number of accounts receivable and payments requiring regional tracking and management.

5. If a settlement payment is past due and late payment interest accrues to the corresponding accounts receivable, any interest amounts collected by the EPA may be deposited in the special account along with the principal. The late payment interest will be recorded in the TR2B fund code.
6. PRPs generally transact their settlement payments with cash; however, if cash is not available, the remittance of other financial assets is acceptable. In bankruptcy cases, marketable securities such as stocks or bonds may be the only assets available to settle a PRP's liability. Guidance for handling marketable securities is available in RMDS Chapter 14, *Superfund Accounts Receivable and Billing*.

H. Special Account Interest

Interest earned on special account balances accrues in the Trust Fund to the special account.⁴ As is the case with the principal balance, interest earnings may be used only for the response actions and response costs at the site for which the special account was established. It is permissible to transfer interest among multiple special accounts at the same site if it is consistent with the settlement agreement(s) that established the special accounts.

1. Calculating Interest

Interest is calculated on a daily basis using an average monthly rate of interest derived from the monthly Hazardous Substance Superfund Income Statement and Balance Sheet maintained by the Bureau of Public Debt, U.S. Department of the Treasury. PCS computes and provides the CFC with the monthly interest rate for special accounts.

2. Requesting Reimbursable Authority

Reimbursable authority must be requested for special account interest earnings before those amounts can be obligated or disbursed. To request this reimbursable authority from the OB, the steps are defined in paragraph H.2. ("Requesting and Issuing Reimbursable Authority") should be followed.

3. Using Interest

For budget and accounting purposes, interest earned by special accounts is used after the principal has been fully expended. Consistent with the settlement agreement, regions may transfer any remaining interest balances to other special accounts only if they were established for the same site.

4. Reducing Interest Liability Owed From the Trust Fund

Interest earned on special account balances accrues in the Trust Fund to the special account. Any interest remaining when a special account is closed will reduce the interest that is owed to the special account from the Trust Fund.

I. Using Special Accounts

Special account funds should generally be used prior to appropriated Trust Fund resources for response actions at sites. Funds deposited in a special account and the interest earned may only be used in accordance with the terms of the settlement agreement and with applicable laws and regulations. Special account funds are appropriated to the EPA by application of CERCLA 122(b) (3). Accordingly, the same level of care and financial management should be exercised with these funds

⁴ In June 1996, OMB agreed that the interest earned on Special Account balances shall accrue to the Trust Fund. Please see: <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/accrue-fund-rpt.pdf>.

as with Trust Fund dollars. While the settlement agreement provides the general criteria on how the funds can be used (e.g., to perform response actions at the site), the EPA will use these funds consistent with CERCLA requirements.

1. Planning for the Use of Available Special Account Funds

RPOs are required to enter in CERCLIS/SEMS how available funds in special accounts will be used. Special account funds should be planned and used in accordance with the general hierarchy⁵ for special account use:

- Use to facilitate settlement with PRPs for response actions;
- Use to fund the EPA's costs for response actions;
- Reclassification; and ☐ Transfer to the Trust Fund.

2. Requesting and Issuing Reimbursable Authority

Before special account funds can be obligated and disbursed to fund response actions or reclassified, reimbursable authority must be requested. Each fiscal year, the RBO provides the OB with an estimate of anticipated new reimbursable authority. The OB submits an apportionment request to OMB for approval. Once OMB apportions the reimbursable authority, the OB loads the reimbursable authority into the agency's financial management system.

To request reimbursable authority, the RBO submits a reprogramming request into the agency's financial management system. The reprogramming document should request funds by fund code/site. The OB issues the reimbursable authority to the regions at the organization level by Regional Program Implementation Office. RBOs can request additional reimbursable authority throughout the year as needed. However, reimbursable authority is only valid for one year and must be requested each fiscal year.

For additional information on requesting reimbursable authority, please refer to the current fiscal year "Reimbursable Authority Guidance" issued by the OB.

3. Obligations and Disbursements

- a.** Obligation and disbursement transactions can be executed after a special account has been established and reimbursable authority has been issued by the OB. The Finance Centers are responsible for processing all obligations and disbursements for their respective areas (e.g., grant disbursements, contract disbursements, Interagency Agreement disbursements, etc.). These transactions conform to the terms of the settlement agreement and the budget established for the reimbursable

authority when issued by the OB. The RBO ensures that funding, obligating and disbursement documents are accurate and ensures availability of funds by fund code in the special account.

- b.** Regional obligation and disbursement data recorded in the agency's financial management system are downloaded each month and used by the CFC to calculate the amount of interest attributable to individual special accounts, to track account balances and to prepare periodic status reports.
- c.** Special account funds should generally be obligated and expended in the following priority order:

⁵ Special account funds should be used in accordance with the "Guidance on Planning and Use of Special Account Funds" (September 28, 2010), available at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/plan-use-specacct.pdf>

1. TR2A (federal unearned revenue)
2. TR2 (non-federal unearned revenue)
3. TR2B (federal and non-federal earned revenue)

4. Disbursements to PRPs

- a. In certain circumstances, settlement proceeds and any interest earned by a special account may be disbursed to a PRP from a special account in reimbursement for work performed at the site for which the special account was established. Prior written approval from OSRE is required.
- b. To be eligible for disbursement from a special account, the PRP must first agree to perform the response action pursuant to a settlement agreement with the EPA. The settlement agreement defines the work to be performed by the PRP and the specific terms or conditions for reimbursing the PRP from the special account. The EPA will not disburse funds from a special account to a PRP performing the work under a unilateral administrative order.
- c. When the settlement agreement is finalized (i.e., when the consent decree is entered or an administrative order of consent or when an administrative agreement becomes effective), the CFC transfers and/or initially deposits the amount of money the EPA has agreed to disburse to the PRP from an existing special account to a separate and distinct special account for the same site. These accounts are referred to as a disbursement special account. Establishing a disbursement special account enables the EPA to provide the PRP with assurances that the disbursement amount agreed to under the settlement will not be used for other site-related purposes and ensures that the interest earned on such amounts is kept separate from interest earned on amounts not eligible for disbursement. The RFO in consultation with or at the direction of the RPO advises the CFC of the need for this account prior to its establishment.
- d. The RPO prepares EPA Form 2550-9, Commitment Notice and the EPA Form 2550-10, Miscellaneous Obligation Document after reviewing the costs submitted by a PRP for reimbursement from the special account. Funds must be committed and obligated in the agency's financial management system before being disbursed to the PRP from the special account (The CFC performs this function for some regions. In these cases the form should be submitted to the CFC Payment Branch.)
- e. The PRP is reimbursed either in installments or in a lump sum upon the satisfactory completion of all site work or the completion of a work milestone as provided in the settlement agreement. Upon receiving the PRP's request for disbursement of response costs, the ORC/LEO and RPO review the cost documentation submitted by the PRP to verify the accuracy and completeness of the costs claimed. The ORC/LEO and RPO also determine that the activity performed and the costs submitted comply with the terms of the settlement agreement (including the requirement for certification of these costs by the PRP's Chief Financial Officer or equivalent official). If the costs are valid, the RPO recommends in a memorandum that the CFC pay the PRP. The memorandum includes copies of the corresponding commitment notice, MOD and the PRP's cost documentation package.

5. Disbursements to States and State Assurances

- a. The EPA may award cooperative agreements to states (as well as political sub-divisions and Indian tribes) to carry out response actions. The RPO is responsible for initiating the preparation and issuance of the cooperative agreement.
- b. In the event that a response action utilizes both special account resources and congressionally appropriated resources, the RPO is responsible for assuring that the state makes specific

assurances as required by CERCLA section 104, regulated through 40 C.F.R. [Code of Federal Regulations] Part 35 Subpart O. Please see RMDS 2550D Chapter 9 for further information.

J. Disbursements to Other Federal Agencies

If another federal agency agrees to perform response work at a site having a special account, the EPA generally provides the performing agency with special account funds through an IA.

K. Special Account Reclassification

Prior to the establishment of a special account, Superfund site expenses may have been charged to the Trust Fund appropriation (using the “T” fund code).

Reclassification returns the EPA to the position in which it would have been had the EPA received the special account funds at the time when a region spent Trust Fund dollars.

1. Each reclassification decision is based on site-specific circumstances. Generally, the RPO should consider the reclassification of special account funds (principal and interest) when there are more than sufficient funds in the special account to fund remaining response actions at that site. In accordance with the general hierarchy for special account use, excess special account funds should be considered for reclassification prior to transferring them to the Trust Fund.
2. The region is required to notify OSRTI and OSRE prior to conducting the reclassification in accordance with current guidance.⁶
3. The reclassification of special account funds is processed by the CFC with a KV document that is entered in the agency’s financial management system. A KV document identifies the lines of accounting that are to be decreased (previously expended appropriated funds) and increased (special account funds) to effectuate the reclassification and make appropriated funds available for recertification. The RFO or the CFC enters these documents into the agency’s financial management system. In cases where CFC enters the information, the KV document should be sent to the CFC Payment Branch.

More information on reclassification can be found in the “Revised Guidance on Reclassification of Superfund Special Accounts” (January 23, 2009), available at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/reclass-spec-acct-mem.pdf>

L. Transfer of Special Account Funds to the Trust Fund

If there are more funds in a special account than are needed for the EPA’s anticipated future costs, excess funds should first be considered for reclassification against prior “T” expenditures for the site. If excess funds remain after reclassification, those funds should be transferred to the Trust Fund and made available for future appropriation by Congress.

1. The region is required to notify OSRTI and OSRE prior to transferring funds, in accordance with current guidance.
2. The CFC processes the transactions in the agency’s financial management system to transfer the remaining receipts to the Trust Fund.
3. Unused interest that is identified in the memorandum will reduce the liability owed to the special account from the Trust Fund.

⁶ The “Model Notifications to Headquarters of Milestone Special Accounts Transactions” (OSWER Directive #9200.2-91) (April 22, 2011) provides additional information on how to notify the appropriate Headquarters offices for reclassifications, transfers to the Trust Fund, and account closures.

M. Special Account Close-Out

- 1.** Special accounts should be closed when:
 - i. All known site work at a particular site is finished and there are no contingent obligations that remain outstanding ;
 - ii. There are minimal funds in the account and no anticipated future deposits for site work; or,
 - iii. The EPA does not expect to incur any additional costs at the site (e.g., State is taking the lead on the cleanup).
- 2.** The region is required to notify OSRTI and OSRE prior to closing an account in accordance with current guidance.
- 3.** The RFO performs financial reconciliation of the account prior to closure. Financial reconciliation ensures that all payments have been made and any remaining obligations are fully liquidated (i.e., expended) or deobligated from the special account prior to closure.
- 4.** The CFC must be informed of when to close a special account, in accordance with current guidance. Upon receiving a request to close an account the CFC will make the required general ledger entries to close the special account. Once a special account is closed, it remains on the CFC's Regional Special Account Report but is identified as "closed."

N. Monitoring and Reporting Special Account Balances

- 1.** The CFC and the region monitor the financial condition of all existing special accounts. Reports are available on demand in the agency's reporting tool under "Special Account Inquiry." These reports provide the cumulative status of receipts, accrued interest, disbursements, unliquidated obligations and available balances. Discrepancies should be reported to the CFC who will determine how to make the necessary correcting entries.
- 2.** As special account funds are obligated, RPOs should update their plans in CERCLIS/SEMS for use of available special account funds. At a minimum, plans for special account use should be reviewed and updated prior to annual work planning and mid-year program reviews.

IV. REFERENCES

- A.** RMDS 2550D, *Financial Management of the Superfund Program*; is available on EPA's Intranet at: <http://intranet.epa.gov/ocfo/policies/resource.htm>
- B.** RMDS 2510, *Annual Budget Guidance*, "Reimbursable Authority Guidance," available on the EPA's Intranet at: <http://intranet.epa.gov/ocfo/budget/budgetmemos.htm>

- C.** The EPA's model settlement language for settlement agreements is available on the EPA Intranet at: <http://intranet.epa.gov/oeca/osre/documents/models.html#sa>
- D.** EPA Form 2550-9, *Commitment Notice*, is available at: <http://intranet.epa.gov/oas/fmsd/forms/2550-9.pdf>
EPA Form 2550-10, *Miscellaneous Obligation Document*, is available at: <http://intranet.epa.gov/oas/fmsd/forms/2550-10.pdf>
- E.** General information about settlement agreements is available at: <http://www.epa.gov/compliance/cleanup/superfund/negotiate.html>
- F.** Special account guidance is available at: <http://intranet.epa.gov/ocfo/policies/superfund/sfsamemo.pdf> and <http://intranet.epa.gov/ocfo/policies/superfund/saguide.pdf>
- G.** Special account reclassification guidance is available at: <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/reclass-spec-acct-mem.pdf>
- H.** Special account closeout guidance is available at: <http://intranet.epa.gov/ocfo/policies/transmittals/tr05-03att.pdf>
- I.** Information about ten-point settlement memoranda is available at: <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/10pnt-settel-rpt.pdf>
- J.** Guidance on the prepayment of oversight costs is available at: <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/spec-acct-oversight.pdf>

V. ACRONYMS

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) (P.L. 96-510)
CERCLIS	Comprehensive Environmental Response, Compensation and Liability Information System
CFC	Cincinnati Finance Center
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
IPAC	Intra-Governmental Payment and Collection
MOD	Miscellaneous Obligation Document
O&M	Operation and Maintenance
OB	Office of Budget
OCFO	Office of the Chief Financial Officer
OECA	Office of Enforcement and Compliance Assurance
OFM	Office of Financial Management
ORC/LEO	Office of Regional Counsel / Legal Enforcement Office

Procedure

OMB	Office of Management and Budget
OSRE	Office of Site Remediation Enforcement
OSRTI	Office of Superfund Remediation and Technology Innovation
OSWER	Office of Solid Waste and Emergency Response
PCS	Program Costing Staff
PRP	Potentially Responsible Party
RAS	Reporting and Analysis Staff
RBO	Regional Budget Office
RFO	Regional Finance Office
RD/RA	Remedial Design/Remedial Action
RFO	Regional Finance Office
RMDS	Resource Management Directives System
RPIO	Responsible Planning and Implementation Officer
RPO	Regional Program Office

VI. MANDATORY REVIEW

The next review for this policy is three years. However, this policy will be reviewed and revised as warranted by new federal legislation, applicable Federal Accounting Standards Advisory Board releases, regulations or policy.

