



**New Jersey Department of Environmental Protection
Site Remediation and Waste Management Program**

**INSTRUCTIONS FOR PETROLEUM UNDERGROUND STORAGE TANK
REMEDiation, UPGRADE AND CLOSURE FUND**

Regulated Tanks

GENERAL INFORMATION

On August 30, 1997, the Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund (UST Fund) was established. The program is within the New Jersey Economic Development Authority (NJEDA), and administered jointly by the New Jersey Department of Environmental Protection (NJDEP) and the NJEDA.

The UST Fund provides financial assistance in the form of loans and grants to eligible owners and operators for the remediation of discharges of residential and other unregulated petroleum underground storage tanks, and for the closure and remediation of State regulated petroleum underground storage tanks.

ELIGIBLE APPLICANTS

Eligible owners and/or operators of a business, 501 (c)(3) non-profit organizations with less than 100 paid employees, independent institutions of higher education, duly incorporated volunteer fire, ambulance, first aid, emergency or rescue companies, public entities, other commercial entities, etc. with regulated tanks.

For business and other commercial property applicants, eligibility criteria are as follows:

- 1) Own or operate <10 petroleum underground storage tanks in NJ;
- 2) Have a net worth of less than \$3 million; and
- 3) Can demonstrate the inability to obtain a commercial loan (two bank denial letters).

Costs incurred and paid for regulated petroleum underground storage tanks by a business, public entity, tax-exempt 501 (c)(3) non-profit organizations with less than 100 paid employees, and duly incorporated volunteer fire, ambulance, first aid, emergency or rescue companies before the application is received by the UST Fund are ineligible by law. However, if the applicant has not paid their contractor for these costs, the applicant is eligible for reimbursement of these costs.

The costs associated with the remediation of a discharge from a regulated petroleum underground storage tank that was not previously upgraded in accordance with the December 1998 upgrade requirements pursuant to N.J.A.C. 7:14B are eligible.

The costs associated with the remediation of a discharge from a previously upgraded regulated petroleum underground storage tank, upgraded in accordance with the December 1998 upgrade requirements pursuant to N.J.A.C. 7:14B are **not eligible**.

The costs associated with the closure of a previously upgraded regulated petroleum underground storage tank, upgraded in accordance with the December 1998 upgrade requirements pursuant to N.J.A.C. 7:14B, are eligible for funding provided the upgrade of the tanks was not funded by the UST Fund, and the applicant has owned and/or operated the regulated tank(s) as of December 1, 2002 and continually thereafter, or inherited said tank(s) from a person who owned and/or operated the regulated tank(s) as of that date. Closure includes the removal of the UST(s), piping, concrete/asphalt disposal (if applicable), clean fill, sampling, and reporting.

If during the course of remediation of a discharge from a regulated petroleum underground storage tank there is a transfer of property ownership subsequent to the tank closure(s), the owner of the tank(s) at the time of closure retains potential UST Fund eligibility. If, however, a property transfer occurs before the tank closure(s), the original owner and/or operator (i.e. the seller) must enter into a written agreement with the purchaser in order to maintain potential UST Fund eligibility. The written agreement must state that the seller will remain as the financially responsible party for the closure and the remediation, as well as maintaining responsibility for performing the remediation until a No Further Action letter is issued by the NJDEP. If this agreement is executed, the applicant (seller) can maintain UST Fund eligibility after transfer of the property in question. In addition, since a five-year lien will normally be placed on properties involving regulated tanks, a separate agreement must be executed between the applicant (seller) and purchaser indicating that the purchaser agrees to allow the lien to be placed on the property. This agreement also must identify who will be responsible for repayment of the balance of the lien should the property be sold again before the five-year lien period expires. The lien requirement is discussed further under "Application Process", below. All applicable agreements described above are required for the applicant (seller) to maintain UST Fund Eligibility after transfer of the property in question occurs.

FINANCIAL ASSISTANCE

Financial assistance is available in the form of grants and loans or a combination of both. Loans may be awarded for up to 100% of eligible project costs up to \$2 million per facility. Loans for eligible project costs up to \$3 million per facility may be awarded for sites located in an area designated as a Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center as designated pursuant to the State Planning Act, the Highlands region, or if a discharge from a UST threatens a drinking water source. Public entities are awarded interest free-loans only. A loan term may not exceed 10 years, requires closing fees established by the NJEDA, and may require the establishment of a property lien.

Conditional hardship grants may be awarded for up to 100% of eligible project costs, up to \$500,000 per site. Grants eligible up to \$1,000,000 may be awarded for sites located in an area designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center pursuant to the State Planning Act, or the Highlands region.

The NJEDA determines the applicants' eligibility for Loan and/ or grant awards, after review of an applicant's specific financial information. To be evaluated for a conditional hardship grant, the regulated tank applicant must have a net operating income before taxes of less than \$250,000 and a personal net worth, exclusive of applicant's primary residence, employer sponsored pension and traditional retirement accounts such as 401K's and IRA's, of less than \$500,000. The NJEDA determines the applicant's eligibility for loan and/or grant awards after review of an applicant's financial information. Meeting these thresholds does not guarantee an applicant a grant, but it does guarantee that the applicant will be evaluated for a grant. Those applicants not meeting the criteria for financial hardship will be offered a loan rather than a grant. The NJEDA may be reached at (866)-534-7789, or (609) 777-4898 or at TANKS@NJEDA.com for further questions regarding financial eligibility.

501 (c)(3) non-profit organizations with less than 100 paid employees, independent institutions of higher education, and public entities are awarded financial assistance without a financial review. In the case of 501 (c)(3) non-profit organizations, they must provide a copy of their 501(c)(3) IRS Determination Letters.

APPLICATION PROCESS

Since the UST Fund is administered jointly by the NJDEP and the NJEDA, a two-step application process is conducted to determine funding eligibility. All UST Fund applications are first submitted to the NJDEP where they are reviewed for completeness, to ensure they meet the minimum technical and statutory eligibility requirements, and that the proposed costs are reasonable. Upon completion of the NJDEP review process, the NJDEP will forward eligible applications to the NJEDA.

All UST Fund Applications forwarded by the NJDEP to the NJEDA will include an authorization to provide funding if the applicant is deemed eligible by the NJEDA. Any business, private institution and 501 (c)(3) non-profit organization with <100 paid employees must also submit a Tax Clearance form, which will be provided by the NJEDA upon receipt of the NJDEP authorization for funding. The NJDEP authorization may request NJEDA to hold the funds in escrow pending submission of invoices, or release of all or a portion of the total funding request, as appropriate, if work has already been completed and documented. Note that the NJEDA issues a two-party check made out to the applicant and their contractor, or a single-party check to the applicant if cancelled checks or other documentation of payment to the contractor is provided.

Upon their receipt of the application from the NJDEP, the NJEDA will contact applicants via regular mail with a request for their financial information and a \$500 application fee for applicants with up to 6 tanks, or a \$1,000 application fee for applicants with up to 9 tanks. If an application is deemed eligible for financial assistance, the NJEDA will issue its closing documents to the applicant for either a grant, a loan or a combination of both. If loans rather than grants are awarded by the NJEDA, liens shall be placed against the property for the length of the loan.

If a grant is awarded by the NJEDA, a lien shall be placed against the property for a period of five years. These five-year liens decrease by 25% after year two, and by 25% each subsequent year until reaching zero after year five. If a loan rather than a grant is awarded by the NJEDA, a lien shall be placed by the NJEDA against the property for the term of the loan.

The applicant has 120 days from the receipt of the notice of approval for the funding to submit to the NJEDA an executed contract for the closure, replacement and remediation of the underground storage tank(s).

CONTRACTOR INFORMATION

All contractors performing work on regulated underground storage tanks, including homeowner heating oil tanks, where the work is being funded by the Petroleum Underground Storage Tank Remediation, Upgrade & Closure Fund must be certified in accordance with N.J.A.C. 7:14B-13. A list of "NJDEP Certified UST Firms" can be found at the UST Fund website at: <http://www.nj.gov/dep/srp/finance/ustfund> .

Please note, all new discharges involving a regulated petroleum underground storage tank, occurring after November 4, 2009, must utilize a Licensed Site Remediation Professional (LSRP) in accordance with N.J.S.A. 58:10C-1 et seq. See <http://www.nj.gov/dep/srp/srra> for more information.

COST INFORMATION

ELIGIBLE PROJECT COSTS

- All reasonable costs for equipment, work and services associated with the minimal effective system to close and/or remediate a leaking regulated petroleum underground storage tank.
- Reasonable and necessary consulting, contracting and engineering costs.
- Closure of a previously upgraded petroleum underground storage tank provided the upgrade of the tank was not funded by the UST Fund and the applicant has owned and/or operated the regulated tank(s) as of December 1, 2002 or inherited from a person who owned and/or operated the regulated tank(s) as of that date. Closures include the removal of the UST, piping, concrete removal (if applicable) and clean fill.
- The remedial costs associated with a leaking regulated petroleum underground storage tank that was not previously upgraded in accordance with the December 1998 upgrade requirements pursuant to N.J.A.C 7:14B.
- Limited legal fees incurred specifically for the actual remediation of an environmental discharge (i.e., obtaining necessary offsite access) as determined by the NJDEP.
- Site restoration costs are limited to damage caused by the remediation or the closure and/or remediation of the regulated underground storage tank. Refer to the UST Fund Cost Guide for details of eligible restoration costs. No restoration costs due to contractor negligence will be considered.

INELIGIBLE PROJECT COSTS

- Costs incurred and paid for regulated petroleum underground storage tanks by a business, a public entity, a tax-exempt, 501 (c)(3) non-profit organizations with less than 100 paid employees, and duly incorporated volunteer fire, ambulance, first aid, emergency or rescue companies before the application is received by the UST Fund are ineligible by law.
- Costs related to pump islands and fuel dispensing equipment.
- Costs to convert to natural gas or propane.
- Costs related to contaminants other than petroleum products.
- Remedial costs associated with a previously upgraded petroleum underground storage tank.
- Costs covered by insurance.
- NJEDA application and NJDEP oversight fees.
- Fill that exceeds the amount of contaminated soil removed.
- Remedial activities that do not comply with the NJDEP Technical Rules for Site Remediation, N.J.A.C.7:26E.
- Applicant's time spent in planning, administering or supervising the remediation.
- Preparation of the UST Fund application and administration of the funds.
- Legal fees/costs not directly associated with remediation as determined by the NJDEP.
- The abandonment in place of a regulated petroleum underground storage tank



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APPLICATION INSTRUCTIONS

The UST Fund Application package is made up of the following sections is described in detail below:

- Section 1. Application Information
- Section 2. Insurance Policy and Tank Service Agreement Claim
- Section 3. Commercial Loan Documentation
- Section 4. Contractor and Cost Information

All applicants must submit ONE original and ONE copy of Section 1. APPLICANT INFORMATION. The remaining sections require only the original to be submitted. The completed application and required information should be mailed to the following address:

Department of Environmental Protection
Bureau of Contract and Fund Management
UST Fund Program
PO Box 413
Trenton, NJ 08625

SECTION 1. APPLICATION INFORMATION

Please fill out applicant name, address and phone numbers, location of leaking underground storage tank, and if applicable, a contact person who will be assisting applicant. A General UST Fund Certification and the UST Fund Grant Certification, signed and notarized must be submitted with the application. The certifications are included as Attachment A and B, respectively. Non-profit UST Fund applicants must include a Non-profit Organization Certification, included as Attachment C, along with proof of 501(c)(3) federal tax exemption.

SECTION 2. INSURANCE POLICY CLAIMS

In accordance with the UST Fund statute, all applicants **must file a written notice of claim** with their insurance carrier(s). Claim information is requested in Section 3, of the application. For insurance policies, **the written notice of claim must list the Petroleum Underground Storage Tank Remediation, Upgrade & Closure Fund, (UST Fund), State of New Jersey, as a beneficiary of the claim to the extent of an award of financial assistance is made from the UST Fund. A copy of the notice of claim, along with documentation that the insurance carrier received the notice must be submitted to this office.** This procedure must be followed for all insurance policies ever held by the applicant for this property.

Once a claim has been filed, you may supply either a copy of correspondence from the insurance company's claims department copy, or a copy of the return receipt to the insurance company. A final determination of coverage is not required to process the application but will be accepted if available responses of non-coverage from brokers/agents are not acceptable. Be advised that any grant/loan award will be contingent upon your ongoing diligent pursuit of claim against your insurance carriers through all available legal avenues. Failure to do so will result in grant/loan default.

Please note, if your insurance policy has an "Absolute Pollution Exclusion Clause", you will be required to submit a copy of an updated correspondence from your insurance carrier verifying that the current policy's pollution exclusion clause is retroactive to the date that your UST initially leaked, and/or to your first effective policy.

Alternatively, if there is no insurance policy and you never have had any liability insurance coverage for the subject site, the NJDEP requires the submission of a notarized affidavit attesting to that fact, included as Attachment F.

It is important to note that an application will not be processed without the insurance information and documentation required above. Included as Attachment E is the Insurance policy documentation checklist. Please utilize the checklist to insure that Section 3. of your application package is complete.

SECTION 3. COMMERCIAL LOAN INFORMATION

In accordance with the UST Fund statute (P.L. 1997, c.235), the applicant must demonstrate the inability to obtain a commercial loan for all or part of the eligible project costs. Two denial letters from two different banks are required. Without such documentation, the NJEDA will not process a request for funding.

SECTION 4. CONTRACTOR and COST INFORMATION

Cost proposals or estimates for work proposed are needed for a funding award to be recommended to the NJEDA. The application will not be processed without an adequate scope of work (SOW) and reasonable cost estimate(s) for proposed work from your contractor for. The contractor's rates will be reviewed to ensure they are consistent with the NJDEP UST Fund Cost Guide target values and similar UST Fund projects. That not in conformance with the Cost Guide must be justified to the satisfaction of the UST Fund before funding will be considered. The UST Fund Cost Guide is included as Attachment G. Any costs not justified may be reduced or denied, and those costs not covered would become the responsibility of the applicant. A basic description of acceptable project costs is found below in Eligible Project Costs and Ineligible Project Costs.

If structural supports are required to properly effectuate the remediation, a certification must be submitted, signed and sealed by a Licensed New Jersey Professional Engineer, stating that the structural supports are necessary to safely and properly effectuate the remediation based on the geological and structural conditions of the property. The pre-existing geological and structural conditions must be noted in this certification. In addition, the specific structural support plan must be outlined.

50% up-front disbursements for regulated petroleum, underground storage tank applications are provided at the time of grant and/or loan closing. Additional disbursements will be provided upon submission of invoices confirming the work has been performed. Also, when no direct subcontractor invoices, rental receipts, and/or material purchase receipts are submitted, the costs may be denied, or they may be considered at a lesser amount in accordance with the UST Fund's reimbursement policies.



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Please check off the following sections of this application to the UST Fund regulated tank program and the corresponding attachment for each section as you complete them:

- Section 1. Application information
 Attachment A General UST Fund Certification
 Attachment B UST Fund Grant Certification
 Attachment C Non-profit Organization Certification (if applicable, along with proof of 501 (c)(3) federal tax exemption)
- Section 2. Insurance policy and storage tank service agreement claim
 Attachment E Insurance/Tank Service Documentation Checklist
 Attachment F Applicant's Notarized Affidavit (if applicable)
- Section 3. Commercial Loan documentation
 Two denial letters attached
- Section 4. Contractor and cost information
 Attachment G UST Fund Cost Guide
 Contractor's Retainer Agreement (including copy of cancelled check issued for retainer fee)

All applicants must submit **ONE ORIGINAL** and **ONE COPY** of the complete NJDEP UST Fund application to facilitate processing of the funding request. The application will be **returned** if the original and one copy of the application are not included. The completed application and required information should be mailed to the following address:

Department of Environmental Protection
Bureau of Contract and Fund Management
UST Fund Program
PO Box 413
Trenton, NJ 08625