



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

MEMORANDUM

SUBJECT: Review of the Superfund Special Accounts Senior Management Committee Charter in FY 2023

FROM: Larry Douchand
Chair, Superfund Special Accounts Senior Management Committee (SASMC)
Director, Office of Superfund Remediation and Technology Innovation (OSRTI)

TO: Special Accounts Senior Management Committee Members

Purpose

The Charter establishing the Superfund Special Accounts Senior Management Committee (SASMC) requires the Charter be reviewed every 2 years. This memorandum memorializes the SASMC's review of the Charter in FY 2023.

Results of Review

The SASMC made the following changes to the Charter during its review in FY 2023:

- Updated the "I. Background" section to reflect Superfund tax receipts as an additional source of funding for sites where resources from potentially responsible parties (PRPs) are not available.
- Updated the following sections under "VI. Roles and Responsibilities of Member Offices:"
 - The Office of Superfund Remediation and Technology Innovation (OSRTI) leads regional work planning and mid-year special account reviews with regional response programs rather than regional remedial programs.
 - Under the Regional Program, Legal and Finance Offices responsibilities removed "(formerly CERCLIS)" in reference to the Superfund Enterprise Management System (SEMS).

Attachment 1 is a copy of the current Charter for your records.

Conclusion

Thank you for your review of the Charter and continued participation on the SASMC. The next review of the Charter will occur in FY 2025. If you have any questions, please feel free to contact Tracey Stewart on my staff at stewart.tracey@epa.gov or (202) 566-1086.

Attachment

cc: SASMC Staff Contacts

Attachment 1

Charter for Superfund Special Accounts Senior Management Committee As of May 2023

I. Background

The Superfund program is responsible for identifying and cleaning up abandoned hazardous waste sites. As part of EPA's "enforcement first" policy, the Agency pursues responsible parties requiring them to conduct or finance cleanups. Potentially responsible parties (PRPs) may finance cleanups by entering into a settlement with EPA, who then deposits the settlement funds into a special account for use at that site, as permitted under CERCLA Section 122.

Special accounts are site-specific, interest bearing sub-accounts within the Superfund Trust Fund used to fund site-specific work. The Agency's goal for the establishment and use of special accounts is to ensure responsible parties pay for cleanup by providing PRP settlement dollars to fund future response work. Through the use of special accounts, appropriated and Superfund tax receipt resources can be conserved for sites where PRP resources are not available. Multiple offices in the regions and Headquarters have responsibility for the establishment and management of special accounts.

II. Objective

EPA has implemented a number of management practices to ensure that the funds in special accounts are managed effectively to maximize their use to support Superfund site cleanups. The establishment, planning, and use of special accounts require extensive coordination among the regions and Headquarters offices.

In order to further improve management, transparency, and accountability among the offices in Headquarters and the regions involved with special accounts, the Office of Land and Emergency Management,¹ Office of Enforcement and Compliance Assurance, Office of the Chief Financial Officer, and the Lead regions for Superfund and Management are creating a Superfund Special Accounts Senior Management Committee ("Committee") comprised of the senior career officials in the affected offices.

III. Members

Members of the Committee shall be the Directors for the:

- Office of Land and Emergency Management (OLEM)
 - Office of Superfund Remediation and Technology Innovation (OSRTI)
- Office of Enforcement and Compliance Assurance (OECA)
 - Office of Site Remediation Enforcement (OSRE)
- Office of the Chief Financial Officer (OCFO)

¹ On December 15, 2015, the Office of Solid Waste and Emergency Response was officially renamed the Office of Land and Emergency Management.

- Office of the Controller (OC)²
- Office of Budget (OB)
- Regional Offices³
 - Superfund Division in the Superfund Lead Region
 - Management Division in the Management Lead Region

The Director for OSRTI will serve as the Chair of the Committee.

IV. Scope of Activities

The Committee is responsible for overall oversight and management of special accounts. The Committee will monitor the status of special accounts and ensure that each member office is fulfilling its responsibilities under the Superfund Special Accounts Management Strategy.

The Committee will meet semi-annually, unless the Chair determines there are no immediate issues to be addressed to warrant a meeting. Consecutive semi-annual meetings may not be canceled by the Chair. If a semi-annual meeting is canceled, materials will still be provided to the Committee to ensure they fulfill the requirements outlined below.

The Committee will be responsible for the following at the meetings:

- 1) Determine the status of special accounts (e.g., number of accounts, available balance, etc.);
- 2) Ensure the use of special account funds is generally consistent with EPA special account guidance (e.g., *Guidance on the Planning and Use of Special Accounts (September 28, 2010)*);
- 3) Evaluate the activities being conducted by respective offices for the management of special accounts;
- 4) Ensure that regional offices carry out planned reclassifications and transfers of special account receipts to the general portion of the Superfund Trust Fund;
- 5) Review the Superfund Special Accounts Management Strategy and prioritize (or revise) activities to implement the Workplan associated with the Strategy;
- 6) Discuss and resolve policy, procedure, or operational issues associated with the management of special accounts;
- 7) As needed, discuss ongoing responses to Office of Inspector General (OIG)/Government Accountability Office (GAO) audits; and
- 8) Address other topics, as needed.

The Chair will elevate unresolved issues of the Committee, as needed, to the appropriate senior level official(s) at the Assistant Administrator level or above for resolution. The Chair will produce a report annually on the work of the Committee in each fiscal year to be provided to the signatories of this Charter.

The Chair of the Committee will organize meetings, assure appropriate meeting records are maintained, and establish and track action items for the Committee. The Chair will have the

² On March 6, 2016, OCFO implemented a reorganization where the Office of Financial Management and the Office of Financial Services came together as the Office of the Controller.

³ Lead regions rotate every two years.

authority pursuant to this Charter to request members of the Committee provide status and/or activity reports. The Chair may call for meetings of the Committee as he sees necessary or based on a request by a Committee member.

V. Duration

This Charter will be reviewed and revised as appropriate every two years. The Charter may be terminated by the Deputy Administrator.

VI. Roles and Responsibilities of Member Offices

All member offices responsible for the management of special accounts will coordinate among one another. Each office represented on the Committee will designate a staff point of contact to work with the other offices on special account activities. For the Chair, OSRTI's staff point of contact will serve a convening and organizing role among the staff contacts.

To increase transparency and clarify lines of communication and responsibility, the following represents the primary activities each respective office is responsible for in the management of special accounts.

Office of Land and Emergency Management

Office of Superfund Remediation and Technology Innovation

OSRTI has management responsibility for remediation of sites under the Superfund cleanup program. The Director of OSRTI will serve as Chair of the Committee. OSRTI will lead regional work planning and mid-year reviews with the regional response programs to discuss special account planning information entered into the Superfund Enterprise Management System (SEMS) for response work at Superfund sites and will be responsible for overseeing special account planning data in SEMS. Through its analysis of special account data, OSRTI will monitor special account use, identify issues associated with the use of special account resources, and develop guidance and associated training related to Superfund response work. OSRTI will monitor and track the accomplishment of regional plans to reclassify special account funds, transfer special account receipts to the general portion of the Superfund Trust Fund, close special accounts, and consult with regions prior to such actions taking place to ensure such actions are conducted in accordance with EPA guidance. OSRTI also will coordinate internally with other OLEM offices on special account issues. OSRTI will coordinate responses to broad special account related inquiries from external parties, such as GAO and OIG, as appropriate. OSRTI also will issue guidance and policy specific to special accounts on behalf of the Special Accounts Senior Management Committee members, in consultation and with the concurrence of said members.

Office of Enforcement and Compliance Assurance

Office of Site Remediation Enforcement

OSRE is responsible for managing the national program of remediation enforcement. OSRE leads in the development and implementation of policy and guidance for settlement agreements and the establishment of special accounts. OSRE also ensures that

PRPs fulfill their responsibilities under CERCLA by performing cleanup work and/or financing cleanup actions. It provides case-specific legal advice to regions on settlement negotiations and special account use and/or concurs with the regions as required by existing CERCLA delegations (i.e., Prior Written Approval requests for special account disbursement to a PRP). OSRE also is responsible for measuring and reporting on special account enforcement accomplishments. OSRE will continue to support regional work planning and mid-year review efforts related to enforcement aspects of special account planning. OSRE also will continue to support efforts to monitor accounts, identify the need for additional resources, training and guidance, and provide transparency to stakeholders. OSRE will consult with regions prior to the reclassification of special account funds, transferring special account receipts to the general portion of the Superfund Trust Fund, and closing special accounts to ensure the actions are done in accordance with the settlement agreement and EPA guidance.

Office of the Chief Financial Officer

Office of the Controller

OC is responsible for developing, managing, and supporting the Agency's federal financial management program by interpreting fiscal legislation, maintaining fiscal operations, and implementing governmentwide external reporting reforms. These responsibilities include issuing Agency policies, procedures, and guidance as it relates to the financial management of special accounts; developing and establishing accounting models and codes to identify and account for special accounts in the Agency's core financial management system; working collaboratively with the Department of Treasury Bureau of Public Debt on special account financial information to be included in the Superfund Trust Fund financial statements; accurately recording financial transactions related to settlements that include provisions allowing for funds to be placed in special accounts; and calculating and recording special account interest to each special account for its appropriate use. Based on requests provided by regional offices, OC will process accounting movements between special accounts, including reclassifications, create new special accounts, and close special accounts. OC has developed, and will maintain, standard reports and queries that allow the Agency to have access to financial information to assist in the management of special accounts. OC also will collaborate with regional counterparts in the development of policy, procedures, and guidance that relate to special accounts.

Office of Budget (OB)

OB is responsible for requesting the annual apportionment of reimbursable authority from the Office of Management and Budget (OMB); approving, processing, and issuing reimbursable authority requested by the Regional Budget Officers (RBOs) via a reprogramming request submitted through the Agency's financial system; and tracking the status of reimbursable authority balances at the fund level. OB also is responsible for recertifying prior-year Superfund appropriated resources deobligated as a result of special account reclassifications. OB is the lead office to coordinate responses to inquiries from OMB and congressional appropriations committees, review special account policy and guidance documents for budgetary implications and consistency with other budget policy and/or guidance, and monitor overall special account resource utilization. OB also will

serve as the lead office to report official end of year summary special account resource collection and expenditure data to ensure consistent external reporting.

Regions

Program, Legal and Finance Offices

Regional program, legal, and finance offices ensure that negotiated settlement language contains appropriate special account provisions and transmit final settlement documents to OC to establish the special accounts. Once the special account is in place, the regional program office is responsible for the planning and spending of special account funds. Site attorneys, along with the site managers, track and enforce any settlement-based limitations on the use of the special account funds. The regional program office, in coordination with the regional legal office, should then plan the available balance of the special accounts in the SEMS database generally within 3 months of the special account creation, and semi-annually or upon the achievement of cleanup milestones thereafter. The regional budget office is responsible for requesting the reimbursable authority required for the annual spending of special account funds and requesting recertification of appropriated funds made available as a result of the reclassification process. Regions also are responsible for monitoring the actual expenditures and reconciling the special account collections to ensure spending authority and funding balances are not exceeded. The regions also are responsible for the closure of the special accounts, working with OSRTI, OSRE, and OC, at the appropriate time. This process includes the reclassification of any remaining funds (including preparation and processing of transactions), and/or transfer to the Superfund Trust Fund.