

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

CITY OF BENTON FIRE)	
DEPARTMENT,)	
Petitioner,)	
v.)	PCB 2017-001
)	(LUST Permit Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE OF FILING AND PROOF OF SERVICE

TO: Carol Webb, Hearing Officer	Melanie Jarvis
Illinois Pollution Control Board	Division of Legal Counsel
1021 N. Grand Avenue East	1021 North Grand Avenue East
P.O. Box 19274	P.O. Box 19276
Springfield, IL 62794-9274	Springfield, IL 62794-9276
(Carol.Webb@illinois.gov)	(Melanie.Jarvis@illinois.gov)

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, Petitioner's Motion for Summary Judgment, copies of which are herewith served upon the above persons.

The undersigned hereby certifies that I have served this document by e-mail upon the above persons at the specified e-mail address before 5:00 p.m. on the 27th of June, 2017. The number of pages in the e-mail transmission is 36 pages.

Respectfully submitted,

CITY OF BENTON FIRE DEPARTMENT,
Petitioner

BY: LAW OFFICE OF PATRICK D. SHAW

BY: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

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PETITIONER’S MOTION FOR SUMMARY JUDGMENT

NOW COMES Petitioner, CITY OF BENTON FIRE DEPARTMENT, pursuant to Section 101.516 of the Pollution Control Board’s procedural regulations (35 Ill. Adm. Code § 101.516), and hereby moves for summary judgment, stating as follows:

STATEMENT OF UNDISPUTED FACTS.

On October 24, 2014, a release was reported from two 500 gallon underground storage tanks, one containing diesel fuel and the other gasoline at the property of the City of Benton Fire Department located at 107 North Maple Street in Benton, Illinois. (R.025) These tanks were subsequently removed and a soil sample taken for analysis. (Id.)

On August 12, 2015, the Agency approved a Stage One Site Investigation Plan and Budget. (R.026) A true and correct copy of this decision is attached hereto as Exhibit A.¹ Thereafter, groundwater samples were collected and analyzed, and the well risers surveyed to determine the direction of groundwater flow and gradient at the site. (R.026) An analysis of soil

¹ Pursuant to 35 Ill. Adm. Code 101.630, Petitioner asks the Board to take official notice of an Agency decision downloaded from the Agency’s website. See McAfee v. IEPA, PCB 15-84, at p. 2 (March 5, 2015).

samples taken when the tanks were removed along with the subsequent groundwater analysis indicated that no further site investigation is necessary. (R.029)

On February 9, 2016, Petitioner's consultant submitted the Site Investigation Completion Report, which was received by the Agency on February 11, 2016. (R.019) This report contained a description of the site investigation activities, as well as actual costs of performing the Stage 1 Site Investigation and reporting the results in the Site Investigation Completion Report. (R.019 - R.082) The actual costs totaled \$20,119.05. (R.066)²

The actual cost budget included the following consultant's materials costs:

Vehicle and mileage (sum of two entries).....	\$282.40
Survey Equipment.	\$150.00
Copies (sum of two entries).....	\$150.00
Photoionization detector (PID).	\$135.00
Bailers.	\$125.00
Water level indicator.	\$60.00
Camera.....	\$30.00
Latex gloves	\$16.80
Ice.....	\$8.06
Plastic bags.....	<u>\$2.75</u>
TOTAL:	\$960.01

(R.075-076)

² Technically, some of these activities (\$2,134.96) are traditionally part of early action, but could not be completed within the required time frame and therefore were submitted as part of the Stage 1 actual cost budget. (R.072) There does not appear to be any issue related to this.

On June 6, 2016 at 4:31 p.m., the Illinois EPA reviewer, Michael Piggush, e-mailed Petitioner's consultant asking numerous lengthy questions and requesting an extension of time because the 120-day decision deadline was June 10, 2016. (R.018) The issues specifically relevant to this appeal are contained in number 4 on the list:

- 4. For each of the items which are listed on the Consulting Materials Costs Form, please provide the following information:**
 - a. Please indicate if the item is owned or rented.**
 - i. If the item is owned, then please provide a mathematical financial derivation for how the unit rate for the item was determined. Include such variables (as applicable) as purchase costs (including receipts), operation & maintenance costs, estimated product usage, and estimated product life.**
 - ii. If the item is rented, then please provide a written cost estimate from the rental company for how the rental rate for the item was determined.**
 - b. Please discuss if it is appropriate for the item to be charged as a direct project cost (versus as an indirect cost of doing business).**

(R.018)

On the morning of June 9, 2016, Petitioner's consultant responded:

Chase has included all information required and in accordance with the Illinois EPA forms and instructions existing at the time of submittal. The rates proposed within the Consulting Materials Form are rates that have consistently been approved in our clients Budgets and Reimbursement requests.

...

No items within this section have been rented and the idea that a consultant should ask a rental company how they determine their rates is unreasonable. A conversation was conducted with Reis Equipment on June 9, 2016 and they would not disclose how the[ir] rental rates were determined but did comment that they were in business to make money.

...

Since no promulgated definitions are provided, Chase has used standard accounting practices and believe all items included are direct costs.

(R.010 (questions omitted))

On June 10, 2016, the Agency approved the Stage 1 Site Investigation Report and modified the Stage 1 Site Investigation Actual Costs Budget by removing all consultant's materials costs. (R.001 & R.005) The Agency stated the costs are ineligible:

- a. These costs lack supporting documentation. Such costs are ineligible for payment from the Fund pursuant to 35 Illinois Administrative Code 734.630(cc).**
- b. These costs may not be reasonable. Such costs are ineligible for payment from the Fund pursuant to Section 57.7(c)(3) of the Act and 35 Illinois Administrative Code 734.630(dd).**
- c. These costs may include indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs. Such costs are ineligible for payment from the Fund pursuant to 35 Illinois Administrative Code 734.630(v).**

(R.005)

The letter also indicated that the consultant was requested to provide "a mathematical financial derivation for how the unit rate for [each] item was determined" and a discussion of whether each item is appropriately a direct project cost, and that this information was not provided. (R.006) The Agency further stated it "may be willing to reconsider" these cuts if the information could be provided. (R.006)

From this letter, Petitioner timely filed this appeal. See Order of Board dated August 11, 2016.

LEGAL ANALYSIS

“Summary judgment is appropriate when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law.” Outboard Marine Corp. v. Liberty Mut. Ins. Co., 154 Ill. 2d 90, 102 (1992). “[T]he burden of proof is on the petitioner to prove that the Agency's denial reason was insufficient to warrant affirmation.” Rosman v. IEPA, PCB No. 91-80 (Dec. 19, 1991). “The Agency's denial letter frames the issues on appeal.” Dickerson Petroleum v. IEPA, PCB No. 9-87, at p. 74 (Feb. 4, 2010). The question before the Board is “whether the application, as submitted to the Agency, would not violate the Act and Board regulations.” Metropolitan Pier and Exposition Authority v. IEPA, PCB 10-73, at p. 51 (July 7, 2011).

The issues in this appeal can be roughly divided into two groups: (i) potential substantive objections on the basis of reasonableness or the presence of indirect costs, and (ii) a procedural objection regarding the refusal to provide a mathematical financial derivation and a discussion of indirect versus direct costs. In reality, it is really the second set of issues that is determinative, as the Agency did not actually conclude that any costs were unreasonable or indirect, but complained that the lack of supporting documentation prevented it from making the substantive determination.

I. NONE OF THE PROVISIONS CITED IN THE DECISION LETTER WOULD BE VIOLATED IF CONSULTANT’S MATERIAL COSTS ARE REIMBURSED.

A. REASONABLENESS.

The Agency decision letter claims that it needed to remove all consulting material costs

from reimbursement because these costs “may not be reasonable.” (R.005) In support of this explanation, the letter cites the following statutory provision:

In approving any plan submitted pursuant to subsection (a) or (b) of this Section, the Agency shall determine, by a procedure promulgated by the Board under Section 57.14, that the costs associated with the plan are reasonable, will be incurred in the performance of site investigation or corrective action, and will not be used by site investigation or corrective action activities in excess of those required to meet the minimum requirements of this Title.

(415 ILCS 5/57.7(c)(3))

The Agency letter further cites to the following Board regulation:

Costs ineligible for payment from the Fund include . . . [c]osts proposed as part of a budget that are unreasonable.

(35 Ill. Adm. Code § 734.630(dd))

The Agency letter does not state that the costs are unreasonable, but that they “may not be” reasonable. As stated earlier, it appears that this is actually intended to be a justification for its request for supporting documentation. In any event, the justification is not supported by the statutory or regulatory provision cited since the Agency does not state that any costs are in fact unreasonable or explain its reason.

Furthermore, it is incontrovertible that the “rates proposed within the Consulting Materials Form are rates that have consistently been approved in our clients['] Budgets and Reimbursement requests.” (R.011) That the rates are those customarily charged by the consultant and reimbursed by the Agency is sufficient to establish by a preponderance of evidence that those rates are reasonable. This need not have been the last word; the Agency is charged with responsibility to constantly review market rates (35 Ill. Adm. Code § 734.875), and

it could have reviewed other documents in its file. (R.006) It did not dispute that the rates are customary, and the record entirely supports Petitioner.

B. DIRECT COSTS

The Agency letter also states that the consultant's materials costs "may include indirect corrective action costs . . . charged as direct costs." (R.005) In support, the Agency letter cites the following Board regulation:

Costs ineligible for payment from the Fund include . . . [i]ndirect corrective action costs for personnel, materials, service, or equipment charged as direct costs.

(35 Ill. Adm. Code § 734.630(v))

Again, the Agency letter does not state that any item is an indirect cost, just that one or more of them "may" be. Therefore, the justification is not supported by the regulatory provision cited. In comparison, in Knapp Oil Co. v. IEPA, PCB 16-103, at p. 6 (Sept. 22, 2016), the decision letter affirmatively stated that "this is an indirect cost billed as a direct cost."

Professional consulting services are reimbursed in the LUST Program on a "time and materials" basis. (35 Ill. Adm. Code § 734.845) For those items not expended during the work, "a reasonable rate may be charged for the usage of such materials, supplies, equipment, or tools." (35 Ill. Adm. Code § 734.630(h)) However, insurance, finance and interest costs are indirect costs that cannot be charged. (35 Ill. Adm. Code § 734.630(t) & (u)) In Knapp Oil, the Board considered the Agency's "Instructions for the Budget and Billing Forms"³ which give examples

³ Pursuant to 35 Ill. Adm. Code 101.630, Petitioner asks the Board to take official notice of Agency instructions downloaded from the Agency's website. See McAfee v. IEPA, PCB 15-84, at p. 2 (March 5, 2015).

of the types of equipment and materials that are reimbursable:

Include on the form the costs associated with materials provided by the professional consulting service (that is, the primary consulting firm) including but not limited to lodging and per diems, mileage (or vehicle), private utility locator, permit fees, well survey fees, NFR Letter recording fees, manifests, copies, and other equipment and supplies (such as PID, FID, explosimeter, DO/ORPH/pH meters, hand augers, cameras/photo development, gloves, plastic bags, decon kit [for consultant's nondisposable field equipment] equipment to survey wells, peristaltic pump, purge pump, rope, bailers, measure wheel, transducer, data logger, water level indicator/interface probe, plastic tubing, metal detector, and barricades).

(Petitioner's Ex. B, at p. 15 (emphasis added) (brackets in original))

With the exception of two bags of ice used for “sample preservation,” (R.076), each of the materials, equipment or field purchase listed are identified as items to be charged separately. Two bags of ice costing a total of \$8.06 is a field purchase made in the course of site investigation, needed to preserve samples until they can be shipped to the laboratory. There is no relevant distinction between the two bags of ice and items like plastic bags and gloves. All of the items cut by the Agency are used at the site to perform the site investigation plan.

As in the previous section, it is not clear that the Agency denial letter actually intends to take the position that these are indirect costs, so much as to justify its denial on the basis of failing to provide documentation explaining the difference to him. In any event, the items are typical examples of direct costs

C. SUPPORTING DOCUMENTATION

The Agency denial letter states that the submittal lacked supporting documentation in contravention of the following regulation:

Costs ineligible for payment from the Fund include . . . [c]osts that lack supporting documentation.

(35 Ill. Adm. Code § 734.630(cc))

“Supporting documentation” is required for payment applications:

A complete application for payment must consist of the following elements:

. . .

9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed;

(35 Ill. Adm. Code § 734.605(b)(9) (emphasis added))⁴

Pursuant to the language of Section 734.605(b)(9), Board decisions have allowed the Agency to request invoices from subcontractors as “supporting documentation” in applications for payment and reject the application to the extent those documents are not subsequently provided. T-Town Drive Thru v. IEPA, PCB 07-85 (April 3, 2008) (laboratory invoices); Friends of the Environment v. IEPA, PCB 16-102 (July 21, 2016) (sub-subcontractor invoices). While these precedents do not apply to budgets, the limited nature of the Board’s construction of “supporting documentation” is apparent from the fact that “invoices” are specifically listed in the Board regulations. Furthermore, in both cases the obligation to provide “supporting documentation” did not require the creation of any new document or a parsing of the nature of photocopying, just the invoice or bill or other record of a third-party financial transaction.

Returning to the present case, the Agency denial letter cites to the following provision as

⁴ In addition, Board regulations expressly list the “supporting documentation” required in a 45-day report in the event that applicable remediation objectives have been met, i.e. a no-further-remedation letter is to be issued. (35 Ill. Adm. Code § 734.210(h)(3)(B))

a source of its authority to demand discussion and a mathematical financial derivation:

The Agency may review any or all technical or financial information, or both, relied upon by the owner or operator or the Licensed Professional Engineer or Licensed Professional Geologist in developing any plan, budget, or report selected for review. The Agency may also review any other plans, budgets, or reports submitted in conjunction with the site.

(35 Ill. Adm. Code § 734.505(a) (emphasis added))

While this provision applies to budgets, it does not authorize the Agency to require the owner or operator to create a supporting document. It allows the Agency to review “technical or financial information” relied upon by the owner or operator or (in this case) the licensed professional engineer in developing the submittal. The word “rely” means “to be dependent,” as to be dependent on well water. See Merriam Webster’s Collegiate Dictionary (10th ed. 1993). In the context of the LUST Program, experts may develop plans and budgets that reference information relied upon, but which are only mentioned, listed or presented in summary form. For example, a corrective action plan may include “references and data sources relied upon in the report.” (35 Ill. Adm. Code § 734.335(a)(8)) Information referenced or listed in a report would be suitable to request as it was expressly incorporated in the report the Agency is evaluating. The same reasoning applies to requests for invoices at the application for payment stage because the submittal is based upon the bills. In reviewing payment applications, the Agency may review any “supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims.” (35 Ill. Adm. Code § 734.610 (c)) Agency forms often require information to be summarized in a form convenient for Agency reviewers, which is in turn based upon information that is not submitted unless requested as in the T-Town decision.

Here, the Agency has not requested an existing document relied upon by the owner or licensed professional engineer, but asked the consultant to provide a legal analysis of the indirect cost issue and a mathematical financial derivation using factors invented by the Agency reviewer. This exceeds the authority in 35 Ill. Adm. Code § 734.505(a), which does not authorize the Agency to deny a budget on the basis of failing to submit a document that does not exist.

There are a number of additional problems that arise under Board regulations in asking for the creation of legal or mathematical analysis. The Agency is required to make its decision within 120 days (415 ILCS 5/57.7(c)(2)), and Section 734.505(a) should be interpreted in a way to make this possible. If the information requested during this period was actually “relied upon” by the owner or licensed professional engineer, then the time limits would be manageable. In most permitting procedures, the Agency is subject to a deadline for completeness review to avoid the problem of additional information being sought a few days before the deadline. Prior to adoption of the Part 734 rules, the Agency had 45 days to determine whether “all information and documentation required by the Agency form for the particular plan are present.” (35 Ill. Adm. Code 732.502 (adopted in In the Matter of: Regulation of Petroleum Leaking Underground Storage Tanks, R94-2(A) (Sept. 15, 1994)) This requirement was eliminated in Part 734, which adapted a streamlined approach that would require less time for consultants, but also “less time required for Agency review.” T-Town Drive Thru, at p. 25. To broaden the scope of Section 734.505(a) to authorize the Agency to require the creation of legal analysis or a mathematical derivation as a supporting document would “un-streamline” the process and be contrary to the assumptions made when the completeness review requirement was eliminated.

In addition, the information sought is either irrelevant or inappropriate even assuming

arguendo that its creation can be compelled. First, the request for a mathematical financial derivation appears to be intended to set rates for the specific consultant. The Agency does not have ratemaking authority under the Act, and even if such authority were inferred it would not authorize one set of rates for Consultant A and another set of rates for Consultant B. Second, whether a particular consultant material's cost is an indirect cost is at least partially a legal issue in nature. See Knapp Oil Co. v. IEPA, PCB 16-103, at pp. 6-7 (Sept. 22, 2016). Legal costs are not reimbursable under the LUST Fund (415 ILCS 5/57.8(1)), and lawyers neither prepare submittals, nor review them. The presumption should be that if the additional information sought is a legal analysis, the request is inconsistent with the design of the LUST Program.

In summary, the Agency lacks authority under the Act or the Board's regulations to require creation of a discussion or mathematical analysis as a condition for reviewing a budget.

II. ALTERNATIVELY, REVIEW OF STAGE 1 SITE INVESTIGATION ACTUAL COSTS BUDGETS IS LIMITED TO IDENTIFYING COSTS THAT EXCEED AMOUNTS EXPRESSLY SET FORTH IN SUBPART H.

Pursuant to the Illinois Environmental Protection Act, reimbursement for site investigation work is premised on the approval of a plan and budget. (415 ILCS 5/57.7(a)(1) & (2)) The budget provides an important safeguard from incurring costs the Agency later might try to dispute. "Agency approval of any plan and associated budget, as described in subsection (c), shall be considered final approval for purposes of seeking and obtaining payment from the Underground Storage Tank Fund if the costs associated with the completion of any such plan are less than or equal to the amounts approved in such budget." (415 ILCS 5/57.7(c)(1))

Pursuant to Board regulations, Stage 1 Site Investigation work is treated differently than

other site investigation activity. A Stage 1 Site Investigation plan must consist of a certification that the work will be conducted in accordance with Section 734.315 of the Board's regulations. (35 Ill. Adm. Code 734.315(b)) Furthermore, "[a] budget for a Stage 1 site investigation must consist of a certification signed by the owner or operator, and by a Licensed Professional Engineer or Licensed Professional Geologist, that the costs of this Stage 1 site investigation will not exceed the amounts set forth in Subpart H of this Part." (35 Ill. Adm. Code 734.310(b) (emphasis added))

In other words, Stage 1 Site Investigation activities are set forth with sufficient detail in the Board's regulations that drafting an actual plan for Agency review would be a cost disproportionate to its value. Similarly, the limited nature of the soil and groundwater investigation makes the cost in both time and money of preparing a State 1 Site Investigation budget disproportionate to its value. Still, the Act requires a plan and budget with the limitation that there can be no further review beyond "the amounts approved in such budget." (415 ILCS 5/57.7(c)(1)) The budget approved herein states that:

The budget, if applicable, is approved, and costs must not exceed the amounts set forth in 35 Illinois Administrative Code 734 Subpart H, Appendix D, and Appendix E.

(Ex. A)

This language largely tracks the Board regulations. (35 Ill. Adm. Code 734.310(b)) The amounts approved are contained in Subpart H, though special attention is given in the Agency budget approval to two appendices that are incorporated into Subpart H and will contain most of the costs for Stage 1 Site Investigation: Appendix D (Sample Handling and Analysis) and Appendix E (Personnel Titles and Rates). See 35 Ill. Adm. Code 734.835 (incorporating

Appendix D into Subpart H); 35 Ill. Adm. Code 734.850(b) (incorporating Appendix E into Subpart H).

For consultant's materials, there are currently no amounts set forth in Subpart H. (35 Ill. Adm. Code 734.850) The Agency approved the budget, pursuant to 35 Ill. Adm. Code § 734.310(b), on the condition that costs do not exceed any amount set forth in Subpart H, and accordingly the Agency cannot reject consultant's materials costs as unreasonable pursuant to 415 ILCS 5/57.7(c)(1). This interpretation is consistent with the purpose of Part 734, which was to create a streamlined approach that would avoid case-by-case reasonableness determinations. T-Town Drive Thru v. IEPA, PCB 07-85, at p. 25 (April 3, 2008). The Agency cannot second-guess costs "that are at or under the amounts of Subpart H," although this does preclude the Agency from requesting "documentation demonstrating that the costs were actually incurred for approved work." Id.; see also 415 ILCS 5/57.8(a)(1) ("In no case shall the Agency conduct additional review of any plan which was completed within the budget, beyond auditing for adherence to the corrective action measures in the proposal.")

The appropriateness of this conclusion is demonstrated by the record herein. A few days before the expiration of the 120-day decision deadline, Michael Piggush purports to have no knowledge of whether any of the consultant's material costs are reasonable or unreasonable, direct or indirect, and believes he is compelled to require a discussion of these issues in order to perform his job. The streamlining approach of Part 734 was intended to require less time for consultants, but also "less time required for Agency review." T-Town Drive Thru, at p. 25.

Nothing in here precludes the Agency from initiating the setting of rates for consulting materials thru rulemaking before the Board. Rates for consulting materials were proposed in the

Part 734 rulemaking, but appear to have been ignored. See United Science Industries Proposal dated Sept. 14, 2005 in Proposed Revisions to Leaking Underground Storage Tank Regulations Part 732 and 734, R2004-22(A). There would be nothing onerous in doing so as the Illinois EPA is already charged with constant vigilance in ascertaining the adequacy of Subpart H. (35 Ill. Adm. Code § 734.875 (“No less than every three years the Agency must review the amounts set forth in this Subpart H and submit a report to the Board on whether the amounts are consistent with the prevailing market rates.”))

The Illinois Environmental Protection Act protects the owner/operator from incurring costs that the Agency later decides not to reimburse through the process of budgets. Where, as here, the Agency precludes the use of proposed budgets (Ex. B, at p. 6), fundamental fairness and statutory intent require Agency review of costs to be limited to restrictions clearly itemized in the Board’s regulations.

In summary, since none of the consulting materials exceeded any amounts actually set forth in Subpart H, the Agency exceeded its authority in striking the consulting materials.

WHEREFORE, Petitioner, CITY OF BENTON FIRE DEPARTMENT, prays for summary judgment restoring all of the consultant materials’ costs to the budget, an order directing Petitioner to submit proof of its legal costs, and such other and further relief as the Board deems meet and just.

CITY OF BENTON FIRE DEPARTMENT,
Petitioner

By its attorneys,
LAW OFFICE OF PATRICK D. SHAW

By: /s/ Patrick D. Shaw

Patrick D. Shaw
LAW OFFICE OF PATRICK D. SHAW
80 Bellerive Road
Springfield, IL 62704
217-299-8484
pdshaw1law@gmail.com

Any questions with regard to this letter should be directed to Michael Piggush via phone (217-782-3101) or electronic mail (michael.piggush@illinois.gov).

Sincerely,



Michael T. Lowder
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

Electronic Copies:

1. Marvin Johnson (mjohnson@chaseenv.com).
2. Kelly Tensmeyer (ktensmeyer@chaseenv.com).

Instructions for the Budget and Billing Forms

The Illinois Environmental Protection Agency (Illinois EPA) has revised the *Budget and Billing Forms* for payment from the Underground Storage Tank Fund (Fund). The Illinois EPA's new forms shall be used for all budgets and applications for payment for all sites subject to 35 Illinois Administrative Code (35 Ill. Adm. Code) 734, 732, or 731, except as noted below. The *Budget and Billing Forms* reflect the amendments to 35 Ill. Adm. Code 732 and the adoption of 35 Ill. Adm. Code 734. When using these forms, please follow the instructions for each particular form that pertains to your site.

Maximum Payment Amounts

The Illinois EPA will only approve payment from the Fund for corrective action costs actually incurred up to the maximum amounts listed in Subpart H, Appendix D, and Appendix E of 35 Ill. Adm. Code 732 or 734—unless bidding is used or the unusual or extraordinary circumstance provisions are followed. The Subpart H, Appendix D, and Appendix E maximum payment amounts will be adjusted for inflation each year on the first day of July of that year. The first adjustment was made on July 1, 2006. The maximum amounts that are applicable for costs submitted in a budget are the amounts in effect on the date the Illinois EPA receives the budget. Please note that, once the Illinois EPA approves a cost, the applicable maximum payment amount for that cost may not be increased by proposing the cost in a subsequent budget (35 Ill. Adm. Code 732.870(d) or 734.870(d)). The maximum amounts that are applicable for costs not approved in a budget by the Illinois EPA, such as early action costs, are the amounts in effect on the date the costs were incurred.

Signature Requirements

For owners and operators other than individuals, a duly authorized representative must sign the forms on behalf of the owner or operator. For the following entities, the duly authorized representative must be one of the following persons:

1. For a corporation, a principal executive officer of at least the level of vice president, or a person authorized by a resolution of the board of directors to sign the applicable document if a copy of the resolution, certified as a true copy by the secretary of the corporation, is submitted with the document.
2. For a sole proprietorship, the sole proprietor.
3. For a partnership, a general partner.
4. For a municipality, state, federal, or other public agency, the head of the agency or a ranking elected official.
5. For a limited liability company, a member for a member-managed company and either a manager or a member for a manager-managed company.
6. For a land trust, a beneficiary of the land trust who meets the definition of "owner" or "operator" under 35 Ill. Adm. Code 731, 732, or 734.

Budgets

Title XVI of the Environmental Protection Act requires owners or operators to submit a budget prior to seeking payment from the Fund, except in the case of costs associated



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with early action activities. Owners or operators of sites subject to 35 Ill. Adm. Code 731 are not required to submit budgets.

For owners or operators conducting site investigation pursuant to 35 Ill. Adm. Code 734, the certification that the costs of the Stage 1 investigation will not exceed the amounts set forth in Subpart H, Appendix D, and Appendix E serves as the budget for the Stage 1 site investigation. The actual costs for conducting the Stage 1 site investigation must be submitted on budget forms concurrently with the results of the Stage 1 site investigation and the next *Site Investigation Plan* and budget (submitted on its own budget forms) or with the *Site Investigation Completion Report* if the site investigation is complete. Likewise, the actual costs for conducting the Stages 2 and/or 3 site investigation must be submitted on budget forms concurrently with the results of the previous site investigation and the next *Site Investigation Plan* and budget (submitted on its own budget forms) or with the *Site Investigation Completion Report* if the site investigation is complete. When preparing budget forms, complete and submit only the pages that apply. If multiple budgets are included in one submittal, only one budget certification form is required.

Budget amendments to an approved budget must be submitted on the same forms as the original budget was submitted. Any new budgets for new activities shall be submitted on the Illinois EPA's new *Budget and Billing Forms*. These new forms should not be combined with other versions of *Budget and Billing Forms* and vice versa.

An original and one copy of the complete **budget** for sites subject to 35 Ill. Adm. Code 734 or 732 must be submitted with an associated plan. The forms may be copied; however, one form must include original signatures. The original and one copy should be mailed to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking UST Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Applications for Payment

If an owner or operator has received approval of a budget on old forms, the corresponding application for payment must be submitted on the old forms. Any new budgets for new activities and corresponding applications for payment shall be submitted on the Illinois EPA's new *Budget and Billing Forms*. These new forms should not be combined with other versions of *Budget and Billing Forms* and vice versa.

When submitting an application for payment, an accounting of all costs must be provided (i.e., invoices and receipts). Invoices and receipts must contain enough documentation to support the amount requested for payment from the Fund. Any costs not substantiated by invoices or receipts will not be paid. Invoices and receipts must include the date the work was performed and a breakdown of all costs with documentation of activities conducted and materials purchased. For example, an invoice from the accredited laboratory noting the date of sample collection, number of samples analyzed, amount charged, etc. is required for payment of analytical costs. If

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the invoices and receipts do not contain detailed information, additional documentation must be submitted providing the required information. Invoices and receipts must also provide adequate documentation that the work approved in the applicable plan and budget was conducted.

Proof of payment of subcontractor costs can be shown in one of three ways:

1. Cancelled checks – photocopy of fronts and backs of cancelled checks.
 - a. One payment per site to one payee for the entire amount of one invoice with a note indicating the date of the invoice and the invoice number being paid.
 - b. One payment per site to one payee for the entire amount of several invoices with a note indicating the dates of the invoices, invoice numbers, and the amounts being paid on said invoices.
 - c. Payment to one payee for multiple sites for the entire amount of several invoices with a note indicating the sites involved, including incident numbers, dates of the invoices, invoice numbers, and the amounts being paid on said invoices.
2. Lien waivers with the name of the company, invoices(s) being paid, date payment took place, and the amount(s) paid on said invoice(s) along with necessary signatures.
3. Affidavits with the name of the company, invoice(s) being paid, date payment took place, and the amount(s) paid on said invoice(s) along with necessary signatures.

Please note that an application for payment for site classification pursuant to 35 Ill. Adm. Code 732 cannot be submitted until a *Site Classification Completion Report* has been approved or approved with modifications by the Illinois EPA. Likewise, an application for payment for the previous stage of site investigation pursuant to 35 Ill. Adm. Code 734 cannot be submitted until either a *Site Investigation Plan* and budget for the next stage of investigation or a *Site Investigation Completion Report* (if further investigation is not required) has been approved or approved with modifications by the Illinois EPA.

The complete **application for payment** with original signatures for sites subject to 35 Ill. Adm. Code 734, 732, or 731 should be mailed to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking UST Claims Unit
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Electronic Filing: Received, Clerk's Office 6/27/2017

Pursuant to:	732 734	732 734	732 734	732 734	731 732 734	732	732	732 734	731 732 734
A complete budget or application for payment must include all of the forms listed below, as applicable:	Early Action Bill Package	Free Product Removal Budget	Free Product Removal Bill Package	Site Investigation or Classification Budget	Site Investigation or Classification Bill Package	Low Priority Budget	Low Priority Bill Package	Corrective Action (High Priority) Budget	Corrective Action (High Priority) Bill Package
General Information for the Budget and Billing Forms	P	B	P	B	P	B	P	B	P
Budget Summary		B		B		B		B	
Billing Summary	P		P		P		P		P
Drilling and Monitoring Well Costs Form	P	B	P	B	P			B	P
Analytical Costs Form	P	B	P	B	P	B	P	B	P
Remediation and Disposal Costs Form	P	B	P	B	P	B	P	B	P
Non-Consulting Personnel Costs Summary Sheet	P	B	P					B	P
Remediation Materials Costs Summary Sheet	P	B	P					B	P
UST Removal and Abandonment Costs Form	P		P					B	P
Paving, Demolition, and Well Abandonment Costs Form	P		P					B	P
Consulting Personnel Costs Form	P	B	P	B	P	B	P	B	P
Consultant's Materials Costs Form	P	B	P	B	P	B	P	B	P
Bid Summary and Contractor Certification Forms	P	B		B		B		B	
Handling Charges Form	P		P		P		P		P
Owner/Operator and Professional Engineer/Geologist Budget Certification Form		B		B		B		B	
Eligibility and Deductibility Determination	P	B	P	B	P	B	P	B	P
Payment Certification Form	P		P		P		P		P
Owner/Operator and Professional Engineer/Geologist Billing Certification Form	P		P		P		P		P
Private Insurance Coverage Questionnaire	P		P		P		P		P
Private Insurance Affidavit	P		P		P		P		P
W-9 Form	P		P		P		P		P
Women and Minority Business Enterprises Form	P		P		P		P		P
Copies of all bills and receipts for which payment is sought	P		P		P		P		P

P = Application for Payment only
 B = Budget only

General Information for the Budget and Billing Forms

Complete the form with the requested information.

On the first page of the form, there is an area to designate the applicable regulations and the site activities for which the package is being submitted. If the site activities involved are those of a Stage 1 site investigation pursuant to 35 Ill. Adm. Code 734, the only submittal is that of actual costs. If the site activities involved are those of a Stage 2 and/or 3 site investigation pursuant to 35 Ill. Adm. Code 734, you must select from the drop-down box whether the submittal is that of actual costs (for work done during the previous stage of investigation) or a proposed budget.

On the second page of the form, include information pertaining to payment from the Fund (if eligible), such as where payment checks should be sent. Please note that only owners or operators of USTs are eligible for payment from the Fund. Therefore, payment can only be made to an owner or operator of the USTs. The Illinois EPA is not required to and will not recognize an assignment or other delegation of payment as justification for issuing payment to anyone other than the owner or operator. The address, as completed on this form, will be used as the mailing address for payment checks and any final determination letters regarding payment from the Fund.

When submitting an application for payment, you must always include a completed and signed W-9 form. In an effort to speed up review of your claim, it is suggested that the W-9 form always be submitted with every application for payment. As noted on the form, your name should be entered as shown on your income tax return.

Lastly, at the end of page 2 is a table to be completed by listing tanks that have ever been or are presently located at the site. Please note that there is only enough space for entry of one incident number. Therefore, if more than one incident number was assigned to a particular tank, multiple lines of the table must be used to list the additional incident numbers (as well as to indicate whether there was a release and, if so, the type of release associated with that incident number). For a tank with multiple incident numbers, it should somehow be indicated that the information pertains to the same tank. An example follows:

Product Stored in UST	Size (gallons)	Did UST have a release?	Incident No.	Type of Release Tank Leak / Overfill / Piping Leak
unleaded gasoline	10,000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	888888	overfill
(same UST as above)		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	999999	piping leak
(same UST as above)		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	20000000	tank leak
diesel fuel	500	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	20000000	tank leak

Click, as instructed, if additional rows of the table are needed.

Budget Summary

Select the regulations (either Part 734 or Part 732) that apply to the owner or operator of the USTs for which the release was reported. The corresponding column headings will appear.

PART 734:

If Part 734 is selected, in each column, as appropriate, select from the drop-down box one of the following:

- “Proposed” if the budget is a proposed budget,
- “Actual” if the budget is a summary of actual costs incurred during the previous stage of site investigation, or
- “N/A” (not applicable) if the budget doesn’t apply to that particular column heading.

Enter budget summary information in only the columns that apply to the budget at-hand. For example, if the proposed budget pertains to Stage 2 Site Investigation costs and accompanying it are actual costs of the Stage 1 Site Investigation, then “N/A” should be selected for columns labeled “Free Product,” “Stage 3 Site Investigation,” and “Corrective Action.” Then, under the column labeled “Stage 1 Site Investigation,” “Actual” should be selected from the drop-down box, and actual costs of the Stage 1 site investigation should be entered on the appropriate lines. Under the column labeled “Stage 2 Site Investigation,” “Proposed” should be selected from the drop-down box, and proposed costs for Stage 2 of the site investigation should be entered on the appropriate lines. Following is an example, in part:

Choose the applicable regulation: 734 732

734	Free Product	Stage 1 Site Investigation	Stage 2 Site Investigation	Stage 3 Site Investigation	Corrective Action
	N/A	Actual	Proposed	N/A	N/A
Drilling and Monitoring Well Costs Form	\$	\$ 2,000.00	\$ 2,000.00	\$	\$
Analytical Costs Form	\$	\$ 1,000.00	\$ 1,000.00	\$	\$

Stage 1 site investigation budgets must always be submitted as actual costs incurred. The actual costs must be submitted with a proposed Stage 2 Site Investigation Plan, a Stages 2 and/or 3 Site Investigation Plan, or a Site Investigation Completion Report (if no additional site investigation is required after Stage 1).

The actual costs of Stage 2 (if Stage 2 was needed) must be submitted with the proposed Stage 3 Site Investigation Plan or Site Investigation Completion Report (if no additional work is required after Stage 2). The actual costs of Stage 3 (if Stage 3 was needed) must be submitted with a Site Investigation Completion Report. Please note that, if contingency work is proposed (to either complete a stage or carry out the next stage), costs of the contingency work must be submitted as proposed costs. See the Site Investigation Process flowchart and accompanying explanation for information about the various combinations of stages that may be encountered.

List the total dollar amount from each of the forms listed, as applicable. The "Total" will be automatically calculated.

PART 732:

If Part 732 is selected, budget summary information should be entered in only the column that applies to the budget at-hand. List the total dollar amount from each of the forms listed, as applicable. The "Total" will be automatically calculated.

Billing Summary

The total amounts from each individual form should be entered in the appropriate box. Please note that early action activities or corrective action conducted pursuant to 35 Ill. Adm. Code 731 neither requires nor allows for pre-approval of costs in a budget. Therefore, the first column of this form "\$ Amount Approved in the Budget" will not be completed for Part 731 or early action applications for payment.

Drilling and Monitoring Well Costs Form

Section 1 – Drilling

Include in the "Rate per Foot (\$)" drilling charge for advancement of a boring or the installation of a well all costs associated with advancing the boring including but not limited to all drilling labor (including driller, driller assistant or laborer, etc.), drill rig time, drill rig and operator travel time and per diem, driller mileage, mobilization, decontamination, Shelby tubes, soil boring abandonment, all remediation compound injection costs (including slurry preparation and mixing equipment), bentonite, boring surface patches, and concrete saw.

An indication must be made as to why each boring is being advanced (i.e., defining the extent of contamination, classification boring, installation of monitoring wells, investigation of migration pathways, injection of a remediation compound) and the drilling type (either hollow-stem auger/conventional [HSA], push-driven technologies [PUSH], or Injection).

If the Subpart H minimum payment amount applies, then the box should be checked indicating such. Upon doing so, the field for "Total Drilling Costs" zeroes out so that the total drilling costs can be entered manually. In addition, an asterisk appears, indicating that the total drilling costs have been adjusted to reflect one or more Subpart H minimum payment amounts. (More than one might apply if the proposed budget or actual costs budget includes more than one round of drilling.)

When the Subpart H minimum payment amount box is not checked, the "Total Drilling Costs" are automatically calculated.

Section 2 – Monitoring/Recovery Wells

Include in the "Rate per Foot (\$)" charge all costs associated with the installation of a monitoring or recovery well (excluding drilling) including but not limited to costs associated with labor to install wells, all well materials (such as well casings, risers, screens, caps and plugs, filter packs, annular seals, surface seals, sand, gravel,

bentonite, concrete, well covers, and locks), and labor and equipment (including groundwater pump) for well development done by the driller.

Analytical Costs Form

Include in the "Cost (\$) per Analysis" charge all costs associated with sample handling and analysis of each sample including but not limited to laboratory personnel, sample handling, sample preparation, all aspects of the laboratory analysis, sample jars and other sampling containers, sample kits, sample disposal fees, and reporting of sampling results. Include the number of samples for each parameter and the actual cost per analysis (up to the maximum total amount per sample listed in Appendix D of 35 Ill. Adm. Code 732 or 734).

For laboratory analyses not included in Appendix D, the Illinois EPA will determine reasonable maximum payment amounts on a site-specific basis.

Include in the soil sampling equipment charge all costs associated with sampling equipment including but not limited to EnCore sampler, purge-and-trap sampler, or equivalent sampling device.

Include in the sample shipping charge all costs associated with sample shipping including but not limited to transportation and/or delivery of samples to the laboratory (e.g., FedEx, UPS, or any other courier service), ice, coolers, and bubble wrap. The maximum total amount per sample listed in Appendix D is the maximum total amount for shipping all samples (soil and groundwater) collected in a calendar day.

Remediation and Disposal Costs Form

Section A – Conventional Technology

Excavation, Transportation, and Disposal of contaminated soil and/or the 4-foot backfill material removal during early action activities:

Include in the "Cost per Cubic Yard (\$)" all costs associated with the excavation, transportation, and disposal of contaminated soil and/or backfill material exceeding the applicable remediation objectives including but not limited to all non-consulting personnel (subcontractors); trucker/equipment operator labor; trucker/equipment operator travel and per diems; truck charges; visqueen truck liner; backhoe charges; equipment (including concrete breaker); equipment mobilization; skid steer; concrete/asphalt excavation, transportation, and disposal; landfill charges; decontamination; barriers; cones; tape; permit fees; traffic control; and other materials and related expenses.

The volume of soil removed and disposed must be determined by the following equation using the dimensions of the resulting excavation:

Soil [(Excavation Length in feet x Excavation Width in feet x Excavation Depth in feet of contaminated soil) ÷ 27] x 1.05 bulking factor

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

The volume of soil removed from within four feet of the outside dimensions of the UST and disposed pursuant to early action provisions must be determined in accordance with Appendix C of 35 Ill. Adm. Code 732 or 734.

Backfilling the Excavation:

Include in the "Cost per Cubic Yard (\$)" all costs associated with the purchase, transportation, and placement of clean material used to backfill the excavation resulting from the removal and disposal of soil, including but not limited to all non-consulting personnel (subcontractors), trucker/equipment operator labor, trucker/equipment operator travel and per diems, truck charges, visqueen truck liner, backhoe charges, equipment, equipment mobilization, backfill material (clay, sand, gravel), barriers, cones, tape, permit fees, traffic control, and other materials and related expenses.

The volume of backfill material must be determined by the following equation using the dimensions of the backfilled excavation:

Soil [(Excavation Length in feet x Excavation Width in feet x Excavation Depth in feet of contaminated soil) ÷ 27] x 1.05 bulking factor

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

The volume of backfill material used to replace soil removed from within four feet of the outside dimensions of the UST and disposed pursuant to early action provisions must be determined in accordance with Appendix C of 35 Ill. Adm. Code 732 or 734.

Overburden Removal and Return:

Include in the "Cost per Cubic Yard (\$)" all costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is required in order to conduct corrective action, including but not limited to all non-consulting personnel (subcontractors), trucker/equipment operator labor, trucker/equipment operator travel and per diems, truck charges, visqueen truck liner, backhoe charges, equipment, equipment mobilization, barriers, visqueen, cones, tape, permit fees, traffic control, and other materials and related expenses.

The volume of soil removed and returned must be determined by the following equation using the dimensions of the excavation resulting from the removal of soil:

Overburden Soil [(Excavation Length in feet x Excavation Width in feet x Excavation Depth in feet of non-contaminated soil) ÷ 27]

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

Section B – Alternative Technology

This section must be used for any remediation technology other than conventional technology. Alternative technology includes but is not limited to soil vapor extraction, land-farming, bio-piles, low-temperature thermal desorption, air sparging, bio-sparging, in-situ bioremediation, chemical oxidation, or dual-phase extraction. Other alternative technologies may be proposed.

Include a time and materials breakdown of all costs. Include in the "Total Cost of the System" all costs including but not limited to all non-consulting personnel (subcontractors), equipment, materials, construction, installation, operation and maintenance, system shutdown and closure, and other expenses of the proposed remediation system. Maximum payment amounts for costs associated with alternative technology will be determined by the Illinois EPA on a site-specific basis.

Also include the information listed in the *Remediation System Information* document.

The volume of soil to be treated in-situ must be determined by the following equation:

Soil [(Length in feet x Width in feet x Depth in feet of contaminated soil) ÷ 27]

A conversion factor of 1.5 tons/cubic yard will be used to convert tons to cubic yards.

All materials, equipment, field purchases, and subcontractor costs must be listed on the *Remediation Materials Costs Summary Sheet* and *Non-Consulting Personnel Costs Summary Sheet*, and the totals from those forms should be placed on the "Total Cost of the System" line in Section B. All professional consultant time (design time, oversight time, etc.) must be listed on the *Consulting Personnel Costs Form*.

Section C – Groundwater Remediation and/or Free Product Removal System

This section must be used if a groundwater remediation and/or free product removal system (such as pump-and-treat or dual-phase vapor extraction) is proposed in a plan.

Include a time and materials breakdown of all costs. Include in the "Total Cost of the System" all costs including but not limited to all non-consulting personnel (subcontractors), equipment, materials, construction, installation, operation and maintenance, system shutdown and closure, and other expenses of the proposed removal system. Maximum payment amounts for costs associated with the proposed removal system will be determined by the Illinois EPA on a site-specific basis.

Also include the information listed in the *Remediation System Information* document.

All materials, equipment, field purchases, and subcontractor costs must be listed on the *Remediation Materials Costs Summary Sheet* and *Non-Consulting Personnel Costs Summary Sheet*, and the totals from those forms should be placed on the "Total Cost of the System" line in Section C. All professional consultant time (design time, oversight time, etc.) must be listed on the *Consulting Personnel Costs Form*.

Section D – Groundwater and/or Free Product Removal and Disposal

This section must be used if groundwater or free product is removed via vacuum truck or other similar method from a groundwater monitoring well, recovery well, or container (such as a drum).

Include in the "Cost per Gallon (\$)" all costs associated with the removal, transportation, and disposal of free product or contaminated groundwater including but not limited to all

non-consulting personnel (subcontractors), truck driver labor, mobilization, vac truck, mileage, equipment, materials, disposal fees, and other related expenses.

If the Subpart H minimum payment amount applies, then the box should be checked indicating such. Upon doing so, the field for "Total Cost" zeroes out so that the total groundwater and/or free product removal and disposal cost can be entered manually. In addition, an asterisk appears, indicating that the total groundwater and/or free product removal and disposal cost has been adjusted to reflect the Subpart H minimum payment amount. (More than one might apply if the proposed budget or actual costs budget includes more than one round of groundwater and/or free product removal and disposal.)

When the Subpart H minimum payment amount box is not checked, the "Total Cost" is automatically calculated.

Section E – Drum Disposal

This section must be used whenever a solid or liquid waste generated as a result of corrective action (e.g., soil borings, water bailed for well development or sampling, or hand-bailed free product) is disposed in a 55-gallon drum.

Include in the "Cost per Drum (\$)" all costs associated with drum disposal including but not limited to drum purchase, drum dolly, transportation, truck charge and mobilization, truck driver labor, and disposal fees.

If the Subpart H minimum payment amount applies, then the box should be checked indicating such. Upon doing so, the field for "Total Drum Disposal Costs" zeroes out so that the total drum disposal costs can be entered manually. In addition, an asterisk appears, indicating that the total drum disposal costs have been adjusted to reflect the Subpart H minimum payment amount. (More than one might apply if the proposed budget or actual costs budget includes more than one round of drum disposal.)

When the Subpart H minimum payment amount box is not checked, the "Total Drum Disposal Costs" are automatically calculated.

Non-Consulting Personnel Costs Form

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

This form should only be used to list personnel costs that are not associated with professional consulting services. Professional consulting services (that is, services performed by the primary consulting firm) must be listed separately on the Consulting Personnel Costs Form. Do not include costs that are part of maximum payment amounts listed in the *Maximum Payment Amounts* sheets.

- a. **Employee Name** – List the name of the employee (required for application for payment only).
- b. **Personnel Title** – List the title of the employee. Personnel titles must be comparable to the task being performed.

- c. **Hours** – List the number of hours worked or proposed to be worked for that particular task.
- d. **Rate (\$)** – List the hourly rate of the employee. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work.
- e. **Total Cost** – Enter the total dollar amount requested for each task (Hours X Rate).
- f. **Task** – Complete an individual line item for each task conducted. The following are some examples of tasks: remediation system installation, operation and maintenance, or alternative technology remediation construction. Provide additional details to supplement this information; for example, the details may include the number of trips for operation and maintenance, number of hours for each trip, and how often trips are proposed.
- g. **Cumulative Total of Non-Consulting Personnel Costs Summary Sheet(s)** – Enter the total non-consulting personnel costs (the sum of all tasks).

Remediation Materials Costs Summary Sheet

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

Include all costs for materials, equipment, and field purchases associated with a groundwater remediation and/or free product removal system and/or alternative technology. Such costs include but are not limited to remediation compounds, nutrients for in-situ bioremediation, and soil vapor extraction equipment.

- a. **Materials, Equipment, or Field Purchase** – List all the materials, equipment, and field purchases used or proposed to be used that are not part of maximum payment amounts listed in the *Maximum Payment Amounts* sheets.
- b. **Time or Amount Used** – List, if applicable, the amount of time or the number of individual items used.
- c. **Rate (\$)** – List the rate at which an item is charged.
- d. **Unit** – List the unit of the rate charged, which may be hourly, daily, weekly, monthly, yearly, etc. or may be based upon an activity such as per foot, cubic yard, square foot, gallon, etc.
- e. **Total Cost/Item** – List the total cost of the material, equipment, or field purchase.
- f. **Subcontractor** – If a service is provided by a subcontractor, list the name of the subcontractor.
- g. **Cumulative Total of Remediation Materials Costs Summary Sheet(s)** – Enter the total cost of all materials, equipment, and field purchases.

UST Removal and Abandonment Costs Form

This section applies to UST removal, abandonment, and disposal activities.

Include in the "Cost (\$)" all costs associated with the excavation, removal, disposal, and/or abandonment of UST systems including but not limited to all non-consulting personnel (subcontractors), mobilization, equipment, materials, decontamination, barriers, cones, tape, PID, slurry, disposal fees, permit fees, and other related expenses.

Please list all tanks that have been removed from or abandoned at the site for which payment from the Fund is requested. The maximum total amount payable per UST is based on the UST volume, as prescribed in the regulations.

Paving, Demolition, and Well Abandonment Costs Form

Section A – Concrete and Asphalt Placement/Replacement

This section must be used for costs associated with concrete, asphalt, and paving installed as an engineered barrier, as well as for costs associated with the replacement of concrete, asphalt, and paving.

Include in the "Cost (\$) per Square Foot" all costs associated with concrete, asphalt, and paving placement or replacement, including but not limited to all non-consulting personnel (subcontractors), placement or replacement labor, per diems, equipment, materials and delivery, base preparation/compaction/leveling, surface preparation and equipment, forms, and other related expenses. In addition, include in the accompanying plan or report documentation of the material (either asphalt, paving, or concrete), the depth of material, and the square footage of the asphalt, paving, or concrete being placed or replaced.

Section B – Building Destruction or Dismantling and Canopy Removal

This section must be used for costs associated with the destruction or the dismantling and reassembly of above grade structures.

Include in the "Unit Cost (\$)" all costs including but not limited to all personnel (primary consultant and subcontractors), per diems, equipment, mobilization, truck charges, backhoe charges, materials, asbestos abatement, barriers, cones, tape, permit fees, and other related expenses. Payment will be determined on a time and materials basis.

The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed \$10,000 per site. A time and materials breakdown of all costs must be submitted with the application for payment.

Section C – Well Abandonment

This section must be used for the abandonment of monitoring or recovery wells that are abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120. Please note that each monitoring well must be listed individually.

Include in the "Cost (\$)" per Foot" all costs including but not limited to all personnel (primary consultant and subcontractors), labor, per diems, transportation, equipment (including jackhammer), mobilization, bentonite, concrete, and other related expenses.

Consulting Personnel Costs Form

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

Include all costs associated with professional consulting services (that is, services provided by the primary consulting firm). Personnel not directly part of the primary consulting firm must be listed on the *Non-Consulting Personnel Costs Form*.

In the "Personnel Title" fields, use the titles listed at Appendix E of 35 Ill. Adm. Code 732 or 734. The highest maximum hourly rate for each personnel title listed in Appendix E may be proposed in the budget, but the amount billed in the application for payment must be based upon the degree, licensing, and experience requirements identified in Appendix E.

Include in the "Rate (\$)" the costs associated with professional consulting services provided by the primary consulting firm including but not limited to plan, budget, and report preparation, application-for-payment preparation, certifications, project oversight, and field activities.

A separate line should be used for each employee performing tasks in each remediation category.

- a. **Employee Name** – List the name of the employee (required for application for payment only).
- b. **Personnel Title** – Select the title of the employee using the personnel titles listed in Appendix E of 35 Ill. Adm. Code 732 or 734 (also listed in the *Maximum Payment Amounts/Personnel Titles and Requirements* document). Personnel titles must be comparable to the task being performed.
- c. **Hours** – List the number of hours worked or proposed to be worked for that particular task.
- d. **Rate (\$)** – List the hourly rate of the employee. The rate may not exceed the maximum hourly rate listed in the applicable *Maximum Payment Amounts/Personnel Titles and Requirements* document. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work.
- e. **Total Cost** – Enter the total dollar amount requested for each task (Hours X Rate).
- f. **Remediation Category** – Select the appropriate remediation category abbreviation from the *Remediation Categories List* document that is applicable to each phase of corrective action that has been or is proposed to be performed.
- g. **Task** – Complete an individual line item for each task conducted. The following are some examples of tasks: preparation of CAP and budget, site investigation fieldwork, operation and maintenance, alternative technology oversight, or

alternative technology remediation design. Provide additional details to supplement this information; for example, the details may include the number of trips for operation and maintenance, number of hours for each trip, and how often trips are proposed.

- h. **Cumulative Total of Consulting Personnel Costs Form(s)** – Enter the total consulting personnel costs (the sum of all tasks).

Multiple pages of the form must be used if additional space is needed.

Consultant's Materials Costs Form

(Note: For this form to function properly, Adobe Reader 8.0 is required.)

Include on the form the costs associated with materials provided by the professional consulting service (that is, the primary consulting firm) including but not limited to lodging and per diems, mileage (or vehicle), private utility locator, permit fees, well survey fees, NFR Letter recording fees, manifests, copies, and other equipment and supplies (such as PID, FID, explosimeter, DO/ORP/pH meters, hand augers, cameras/photo development, gloves, plastic bags, decon kit [for consultant's nondisposable field equipment], equipment to survey wells, peristaltic pump, purge pump, rope, bailers, measure wheel, transducer, data logger, water level indicator/interface probe, plastic tubing, metal detector, and barricades).

- a. **Materials, Equipment, or Field Purchase** – List all the materials, equipment, and field purchases used or proposed to be used that are not part of maximum payment amounts listed in the *Maximum Payment Amounts* sheets.
- b. **Time or Amount Used** – List, if applicable, the amount of time or the number of individual items used.
- c. **Rate (\$)** – List the rate at which an item is charged.
- d. **Unit** - List the unit of the rate at which an item is charged, if applicable. The unit may be hourly, daily, weekly, monthly, yearly, etc. The unit and unit rate may also be based on an activity such as per foot, cubic yard, square foot, gallon, etc.
- e. **Total Cost** – List the total cost of materials, equipment, or field purchase.
- f. **Remediation Category** – Enter the appropriate remediation category abbreviation from the *Remediation Categories List* document that is applicable to each phase of corrective action that has been or is proposed to be performed.
- g. **Description/Justification** – Enter a description of the materials, equipment, or field purchase and/or justification for its use.
- h. **Cumulative Total of Consultant's Materials Costs Form(s)** – Enter the total costs of all materials, equipment, and field purchases.

Multiple pages of the form must be used if additional space is needed.

Bid Summary Form

As an alternative to the maximum payment amounts set forth in Subpart H, Appendix D, and Appendix E of 35 Ill. Adm. Code 734 or 732, one or more payment amounts may be determined via bidding in accordance with 35 Ill. Adm. Code 734.855 or 732.855. Each bid must cover all costs included in the maximum payment amount that the bid is replacing.

The following items must be provided to the Illinois EPA with the associated budget:

1. A copy of the scope of work provided to the subcontractors requesting bids;
2. Copies of **all** bids received (a minimum of three bids is required unless unusual or extraordinary circumstances apply), accompanied by completed and signed *Contractor Certification Forms* and bid details; and
3. A completed and signed copy of the *Bid Summary Form*.

Contractor Certification Form

Whenever a job is bid, completed and signed *Contractor Certification Forms* must accompany the *Bid Summary Form*. Bid details should be attached.

Handling Charges Form

Handling charges for field purchases and subcontractor billings must be calculated based on the table below. **Handling charges do not need to be submitted in a budget.** Submit copies of invoices and/or receipts of the subcontractor charges and/or field purchase with an application for payment. Include a breakdown of the date the work was conducted, as well as documentation of all activities and materials purchases, with invoices and/or receipts. If the invoices and receipts do not contain this information, submit additional documentation providing this information.

Subcontract and Field Purchase Cost	Eligible Handling Charges as a Percentage of Cost
\$1 - \$5,000	12%
\$5,001 - \$15,000	\$600 + 10% of amt. over \$5,000
\$15,001 - \$50,000	\$1,600 + 8% of amt. over \$15,000
\$50,001 - \$100,000	\$4,400 + 5% of amt. over \$50,000
\$100,001 - \$1,000,000	\$6,900 + 2% of amt. over 100,000

Miscellaneous Forms

The following forms should be completed, signed, and submitted, as applicable:

- Owner/Operator and Licensed Professional Engineer/Geologist Budget Certification Form
- Owner/Operator and Licensed Professional Engineer/Geologist Billing Certification Form
- Payment Certification Form
- Private Insurance Coverage Questionnaire and Private Insurance Affidavit

- Federal Taxpayer Identification Number and Legal Status Disclosure Certification Requirements
- Women and Minority Business Enterprises Form
- Personnel Weekly Work Sheet
- Materials Weekly Work Sheet

Reference Documents

The following reference documents should be used, as applicable, when completing budgets and/or applications for payment:

- Personnel Title Descriptions and Duties Summary
- Remediation Categories List
- Remediation System Information
- Maximum Payment Amounts (March 1, 2006 through June 30, 2006)
- Maximum Payment Amounts (July 1, 2006 through June 30, 2007)
- Maximum Payment Amounts (July 1, 2007 through June 30, 2008)