



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

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

Unregulated Leaking Tanks (Including Residential Heating Oil Tank)

#### 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

Owners, operators, homeowners, renters, tax-exempt, 501(c)(3) non-profit organizations with less than 100 paid employees, independent institutions of higher education, public entities and duly incorporated volunteer fire, ambulance, first aid, emergency or rescue companies with an unregulated leaking petroleum underground storage tank are eligible. Unregulated heating oil tanks include all residential heating oil tanks and all non-residential underground storage tanks containing heating oil used for onsite consumption with an aggregate capacity of 2000 gallons or less and non-commercial farm or residential with less than 1100 gallons of motor fuel, the volume of which is 10 percent or more below the ground.

If during the course of remediation there is a transfer of property ownership, the applicant and the prospective purchaser must enter into a written agreement that is signed by both parties, which states that the seller will remain as the financially responsible party for the remediation, as well as maintaining responsibility for performing the remediation until a No Further Action letter is issued by the NJDEP. If the property involved in the transfer is not the primary or part-time residence of the applicant, a five-year lien will be placed on the property and therefore 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.

Applications for leaking tanks for a homeowner's primary residence, or as of October 1, 2009, tanks located at properties owned by a 501(c)(3) non-profit or incorporated fire, ambulance, first aid, emergency or rescue company, are eligible for reimbursement for remediation costs incurred and paid for before the application is received by the UST Fund.

**Remediation costs for a commercial property, or a residential secondary or investment property, paid before an 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.

#### 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 applicant's eligibility for loan and/or grant awards after review of an applicant's specific financial information. To be evaluated for a conditional hardship grant, homeowner/unregulated tank applicants must have a taxable income of no more 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 no more than \$500,000. Business applicants must have a net operating income before taxes of no more 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. 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 also be reached at (866)-534-7789, or (609) 777-4898 or at [TANKS@NJEDA.com](mailto:TANKS@NJEDA.com) for further questions.

501 (c)(3) non-profit organizations, independent institutions or higher education, and public entities are awarded financial assistance without a financial review. 501 (c)(3) non-profit organizations, 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 the NJDEP will inform applicants with a letter specifying a recommended award amount and stating that the application has been forwarded to the NJEDA.

All eligible applications forwarded by the NJDEP to the NJEDA include an authorization to provide funding if the applicant is deemed eligible by the NJEDA. The NJDEP authorization may request NJEDA to hold the recommended funds in escrow pending submission of invoices, or release 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 specific financial information and a \$250 application fee for homeowner unregulated tank applicants. All commercial properties, residential investment properties and properties owned by 501 (c) 3 non-profit organizations are required to pay a \$500.00 application fee. If the applicant is deemed eligible for financial assistance, the NJEDA will issue its closing documents to the applicant for a grant, a loan, or a combination of both.

If a grant is awarded by the NJEDA and the property is not the owner's primary or part-time residence, or it is a commercial property, 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, and the property is not the owner's primary or part-time residence, 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 unregulated 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> .

## **COST INFORMATION**

### **ELIGIBLE PROJECT COSTS**

- All reasonable costs for equipment, work and services associated with the minimal effective system to remove/close a leaking petroleum underground storage tank.
- Replacement of a leaking homeowner heating oil underground storage tank with an equivalent above-ground storage tank system.
- Reasonable and necessary consulting, contracting and engineering costs.
- Limited legal fees incurred directly related to remediation of an environmental discharge (e.g., obtaining necessary offsite access) as determined by the NJDEP.
- The reimbursement of costs incurred by NJDEP's Emergency Response contractors during an Emergency Response action related to a discharge from a petroleum underground storage tank used to store heating oil for onsite consumption in a residential property, as long as that Emergency Response action took place after October 1, 2009. (Note - NJDEP Emergency Response administrative costs are not eligible)
- Site restoration costs are limited to the actual area of the remediation of the leaking underground storage tank. Eligible costs for certain site restoration categories are capped at \$5,000.00 each. These categories include, but are not limited to:
  1. Landscaping – Includes lawn restoration, bushes, shrubs, trees, flower beds, edging, mulch, etc. Note that replacement of plantings will not necessarily be with mature plants.

2. Hardscaping – Includes asphalt and concrete driveways, pavers, brick or concrete walkways, patios, and decorative walls of any construction, as well as loose stone used for decorative purposes.
3. Decking costs – Includes the cost to dismantle, remove and replace a portion or the entirety of a deck in order to effectuate a remediation.
4. Pool costs – Includes the cost to dismantle, remove and replace a portion or the entirety of a swimming pool in order to effectuate a remediation.

Applicant is responsible for obtaining a minimum of three (3) price quotes for any restoration work. In addition, photographs of the conditions prior to, during, and after the remediation must be submitted with any request for restoration costs.

#### **INELIGIBLE PROJECT COSTS**

- Costs related to contaminants other than petroleum products.
- Costs covered by insurance claims or tank service agreements.
- NJEDA application and NJDEP oversight fees.
- All costs associated with a discharge from above-ground storage tanks.
- Costs to convert to other fuels, such as natural gas or propane.
- 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 installation of a new underground storage tank unless the installation of an above-ground storage tank is not feasible (e.g. local building code or homeowner association rules prohibit the installation of an above-ground storage tank.)
- The abandonment in place of a leaking tank unless a licensed civil engineer determines that the removal of the UST may weaken or damage the structure of the house.
- Restoration costs due to contractor negligence.
- Reimbursement of the costs to repair or replace areas broken up or damaged due to excavators, dump trucks or other equipment not directly related to the remediation. Examples are broken driveways, sidewalks, rutted lawns.
- Upgrades are not covered - the UST Fund will only reimburse for repair or replacement of what existed prior to the remediation.
- In general, the UST Fund retains the right to cap or deny other categories of restoration costs that are not directly related to the remedial activities or structural integrity of the home in question.



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**APPLICATION INSTRUCTIONS**

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

- Section 1. Applicant Information
- Section 2. Leaking UST Confirmation
- Section 3. Insurance Policy and Tank Service Agreement Claim Documentation
- Section 4. Cost Information
- Section 5. Licensed Site Remediation Program (LSRP)

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. APPLICANT 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, must be signed and notarized and 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. LEAKING UST CONFIRMATION**

In order to confirm that an applicant has a leaking UST and is therefore eligible under the UST Fund leaking tank program, the unregulated tank must have first been removed from the ground and inspected. If after removal and inspection the tank or underground tank piping was found to have holes, corrosion, cracks, or loose piping fittings, an applicant must include that proof with their application. Documentation of the inspection must be provided in the form of the UST Fund application Contractor Leaking Tank Certification Form (included as Attachment D), a report of tank failure from your county or local building, fire or health inspector, and/or photo documentation of same.

An NJDEP incident number, tank pressure testing results or soil boring analyses are not acceptable substitutes for the above documentation. If the tank has not yet been removed from the ground and inspected, the NJDEP leaking underground storage tank program will not accept an application.

If the tank was removed, inspected and found not to have the above described leak confirmation, a residential applicant should not continue with this application. They should apply for funding under the UST Fund's non-leaking tank program, administered directly by the NJEDA. Information about this program is available on the NJEDA's web-site at:

<http://www.njeda.com>, or by contacting the NJEDA Customer Care Representative at (866) 534-7789, or (609) 777-4898. Please note, the NJEDA non-leaking tank program is only available to residential applicants with non-leaking heating oil unregulated tanks.

**SECTION 3. INSURANCE POLICY and TANK SERVICE AGREEMENT CLAIMS**

In accordance with the UST Fund statute, all applicants must file a **written notice of claim** with their insurance carrier(s), as well as with any companies providing tank service agreements procured through their fuel oil company.

**When filing the insurance claim, 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 any 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.** Claims filed with respect to tank service agreements do not require the UST Fund, State of New Jersey to be named as a beneficiary to said claim.

Once a claim has been filed, either a copy of correspondence from the insurance company's claims department acknowledging claim receipt, or a copy of a certified mail return receipt card to the insurance company must be supplied. A final determination of coverage is not required to process the application, but must be provided if and when it becomes available. Responses of non-coverage from brokers/agents are not acceptable. Be advised that any grant/loan award will be contingent upon an applicant's ongoing diligent pursuit of claims against their insurance carriers through all available legal avenues. Failure to do so will result in withdrawal of the application.

Alternatively, if there is/was no insurance policy or 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 Homeowner Insurance policy and Service Agreement Claims documentation checklist. Please utilize the checklist to insure that Section 3 of the application package is complete.

#### **SECTION 4. COST INFORMATION**

Cost proposals, estimates, and/or invoices are required for funding 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, as well as invoices from your contractor for the work that may have already been performed. The contractor's rates will be reviewed to ensure they are consistent with the NJDEP UST Fund Cost Guide. Those rates and costs not in accordance with the UST Fund Cost Guide may be reduced or denied, and would become the responsibility of the applicant.

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.

Invoices from the applicant's prime contractor/consultant, as well as direct subcontractor invoices, rental receipts, and/or material purchase receipts must be submitted for funding consideration. Once this documentation confirming that the work has been performed are submitted, disbursements may be recommended. If this documentation is not submitted, the costs may be denied, or they may be considered at a lesser amount in accordance with the UST Fund's reimbursement policies.

Although not required, a Project Summary Sheet is recommended to be included to facilitate the processing of your application. The Project Summary Sheet is included as Attachment G.

#### **SECTION 5. LICENSED SITE REMEDIATION PROGRAM (LSRP)**

An LSRP is not required for unregulated petroleum underground storage tanks. However, if an applicant elects to use a LSRP, the applicant must have "Attachment I" completed by the retained LSRP. The original copy of this form must be sent to the Bureau of Case assignment and Initial Notice, and a copy of this form must be attached with the submitted UST Fund application. See <http://www.nj.gov/dep/srp/srra/> for more information.



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Please complete the following sections of this application and the corresponding attachments:

- 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.  Confirmation of a unregulated leaking petroleum underground storage tank  
 Attachment D Contractor/Local Inspector Leaking Tank Certification Form
- Section 3.  Insurance policy and tank service agreement claim  
 Attachment E Insurance/Tank Service Agreement Documentation Checklist  
 Attachment F Applicant's Notarized Affidavit (if applicable)
- Section 4. Contractor and cost information (including proposals and cost estimates and/ or primary invoices and associated subcontractor invoices.)  
 Attachment G UST Fund Cost Guide (retain as a reference)  
 Attachment H Project Summary Form  
 A copy of the contractor's certification for UST Closure  
 A copy of the contractor's certification for Subsurface Evaluation  
 Contractor's Retainer Agreement (including copy of cancelled check issued for retainer fee)
- Section 5. Licensed Site Remediation Program (LSRP)  
 Attachment I LSRP Retention & Dismissal Form

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