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PEP - ENVIRONMENTAL COMPLIANCE MEMORANDUM NO. 10-8

To: Heads of Bureaus and Offices

From: Michaela E. Noble, Director
Office of Environmental Policy and Compliance

Subject: Central Hazardous Materials Fund (CHF) Strategic Prioritization Framework

PURPOSE

The Office of Environmental Policy and Compliance (OEP) is issuing this Environmental Compliance Memorandum (ECM) under the authority provided by 381 Departmental Manual Chapter 4.5B to provide instructions and guidance on the environmental compliance responsibilities of the Department of the Interior (Department). The OEP has the delegated authority to provide “leadership and direction in the coordination and development of environmental policy and program evaluation.”

The scope of this ECM on CHF Strategic Prioritization Framework (Framework) is to provide a consistent method to determine what sites will receive CHF funds during the annual nomination request. This will be done in two phases. The first phase will use the CHF scoring matrix, with each site’s CHF scoring matrix score serving as the foundation upon which a ranking will be built. The second phase in the prioritization process will analyze capacity readiness, potentially responsible party (PRP) involvement, and other site-specific factors that will result in a CHF Technical Review Committee (TRC) recommendation for funding. The Framework is designed to analyze and compare sites nominated for funding by the Department’s many bureaus using a consistent set of criteria, taking into consideration each bureau’s mission and cleanup program objectives.

According to ECM 10-7 *Policy and Procedures for Prioritization of Contaminated Sites*, the Framework prioritizes sites around three Core Priorities; 1) human health and ecological risk, 2) legal obligations, and 3) Secretarial and mission priorities. ECM 10-7 directs each bureau and program (such as CHF) to develop its own strategic prioritization framework using these core priorities. ECM 10-7 further directs each bureau to identify the mission priorities unique to the bureau, as well as other factors such as program or bureau-specific requirements, goals, or objectives, relevant to the strategic prioritization of the bureau’s contaminated sites for cleanup and restoration. For a site to be considered for CHF funding, it also must meet the eligibility criteria and requirements set forth in ECM 10-3 *Central Hazardous Materials Fund Project Nomination Guidance*.

CHF PRIORITIZATION PROCESS

Every year since 1996, the Department has received Congressional appropriations into the CHF. The CHF funding is used to clean up the Department's highest priority contaminated sites. The CHF funds are only available to clean up sites using the authorities of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) in a manner not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

Annually, between January and April, OEPC opens the CHF Nomination Module so bureaus can enter in their site funding requests for the upcoming fiscal year. The process starts with a CHF call letter, which provides guidance and schedule information for the nomination process. The call letter also provides details on how to address Department and bureau priorities within the CHF scoring matrix.

According to ECM 10-3 and ECM 10-7, each bureau is required to perform an internal prioritization process before nominating a site for CHF funding. Only the bureau's highest priority sites are brought forward as a funding request in the CHF Nomination Module.

The CHF scoring matrix is the initial tool used to prioritize the Department's CHF site funding requests (see Attachment 1). The scoring matrix comprises a series of questions designed to address the core priorities of human health and ecological risk, legal obligations, and Secretarial and mission priorities. The CHF scoring matrix score is applied to all CHF funding nomination requests. Every year that a site is nominated for CHF funding, the bureau is responsible for ensuring that information in the scoring matrix has been updated with current information/factors and that the site's score is up to date.

After the nomination process closes in mid-April, OEPC performs a quality assurance/quality control check on the funding nominations to ensure that all nominations are complete and ECM compliant. The OEPC consolidates all of the funding requests into the CHF nomination book for the budget year. The OEPC distributes the nomination book to the CHF TRC as quickly as possible, generally around mid-May.

The TRC is composed of bureau representatives, Solicitor's Office (SOL) representatives, and OEPC staff. The committee reviews the nominations for CERCLA and ECM compliance, and provides a recommended prioritization of sites for funding. The OEPC organizes the first TRC meeting to occur in May, June, or July. The goal of the first TRC meeting is for the collective group to provide a technical review and evaluation of the projects. During this meeting, the TRC receives a list of sites requesting funding, prioritized solely on scoring matrix scores, for review and discussion. The meeting adjourns with the TRC representatives knowing the initial total CHF funding request for the upcoming fiscal year and the ranking of each site on the list. Requests for additional information on certain projects are made at this time. Information regarding the upcoming fiscal year appropriations amount and cost recovery amount may or may not be known.

The CHF budget comprises an annual congressional appropriation and an estimated amount of anticipated response cost recoveries for the coming year. Typically, the OEPC determines the total budget amount during the first quarter of the fiscal year. Once the total CHF funding amount is determined by the OEPC, a second TRC meeting is scheduled. In advance of the second TRC meeting, the OEPC sends to the bureaus a spreadsheet requesting updates on key information, such as the project's unused funds (carryover), adjustments to the new funding requests, shovel readiness, legal obligations, cost recovery potential, and any additional comments needed for TRC and OEPC analysis (see Attachment 2). The OEPC compiles the updated bureau information into a revised CHF funding request spreadsheet ranked/prioritized by scoring matrix score.

The OEPC convenes the second TRC meeting as early as possible, generally in the second quarter of the fiscal year. The TRC members present any new project information gathered from the bureaus that was identified during the first TRC meeting. The TRC reviews the prioritized funding list with a proposed fiscal year funding cutoff line. Sites are discussed further based on information in the additional columns of the spreadsheet (see Attachment 2). The TRC can adjust (reprioritize) the ranking of sites, generally focusing on those sites around the expected funding cutoff line, to meet the needs of the Department. Examples of such adjustments could be that a site just below the funding cutoff line is ready to turn dirt, and therefore should be elevated. Or a site just above the funding cutoff line is facing litigation issues that may pose a future delay and therefore should not be prioritized ahead of a site that is ready for remedial activity. The TRC will adjourn with a ranked list of prioritized site funding requests that will be used to draft the CHF annual funding request memorandum.

The OEPC's Director reviews the CHF annual funding request memorandum and may reprioritize site funding requests as appropriate to meet Department and Office priorities. After surnaming by the OEPC Director, the annual funding request memorandum is submitted to the Deputy Assistant Secretary for Policy and Environmental Management (DAS-PEM) for review and approval.

Once funding requests are approved, the OEPC distributes available allocated funding to the bureaus and sites as quickly as possible. The funding distribution process may occur over a period of time, depending on funding availability.

PRIORITIZATION MILESTONES

The annual prioritization process includes the following steps:

- 1) The OEPC data call letter requesting funding nominations (January)
- 2) Bureaus submit prioritized projects in the CHF Nomination Module (Jan. – mid-April)
- 3) The OEPC evaluates submissions (QA/QC) and builds the nomination book (May)
- 4) First TRC meeting (May, June, or July)
 - a) technical review and evaluation of projects
- 5) The OEPC determines funding availability (Appropriations + cost recoveries) (Oct. - Dec.)
 - a) Schedule second TRC meeting (as soon as possible, mostly likely Jan., Feb., or March)
 - b) Bureau representatives provide updated site status and budget information as requested in a spreadsheet template sent out by OEPC (see Attachment 2)

- 6) Second TRC meeting (Jan., Feb., or March - at the Office's discretion based on available information)
 - a) The TRC recommends funding based on scoring matrix and additional factors as documented in the spreadsheet updates (see Attachment 2)
- 7) The OEPC Director reviews funding recommendation and submits request to DAS-PEM for approval
- 8) Based on approval, the OEPC distributes funds to bureau projects

ADDITIONAL FACTORS and FUNDING LIMITATIONS

The CHF scoring matrix score initially ranks the site funding requests. After the initial ranking, and during the second TRC meeting, the TRC may apply additional, pre-determined factors to adjust the prioritization rankings when considering the final funding recommendation. These additional factors are described in the Attachment 2 spreadsheet.

In addition, given the high demand and competition for CHF funding, there are certain site activities and times in which funding will generally not be available. These are outlined below.

1. Long-term monitoring (LTM) for natural attenuation and post-removal or remedial action operation and maintenance (O&M) – a CHF site in or entering this phase of activity will only be eligible for CHF funding for 2 years (current projects would have 2 years to determine alternative funding sources).
2. Water treatment to meet performance standards – sites that are actively treating for performance standard attainment, to also include sites monitoring for natural attenuation, are only eligible for CHF funding for up to 5 years.
3. Five-year reviews – sites are no longer eligible for CHF funding after completing the second five-year review.
4. Low or non-scoring sites will be handled on a case-by-case basis with a determination made by TRC in the final funding meeting.
5. Emerging projects with immediate needs and out-of-cycle funding – will be handled on a case-by-case basis by the OEPC Director (with TRC input if possible).

ORGANIZATIONAL UNIT RESPONSIBILITIES

Each bureau is responsible for internally prioritizing its contaminated sites and entering the bureau's highest priority CHF-eligible sites into the CHF Nomination Module. When completing the nomination process, the bureau confirms the site's eligibility for CHF funding, as well as the accuracy of the CHF scoring matrix score.

The TRC evaluates all site nominations and funding amounts. The TRC determines funding recommendations based on scoring matrix scores as well as other select factors.

The OEPC Director reviews the prioritized recommendations provided by TRC. If the Director has concerns, input will be sought from TRC and affected bureau. The Director is responsible for determining the final selection of projects for funding to be reviewed and approved by DAS-PEM.

APPROVING OFFICIALS

The DAS-PEM signs the CHF fiscal year funding finalization memo. The memo provides a ranked list of CHF sites and funding needed for each site. As funds become available, the OEPC Director signs the distribution memo that directs available funds to a specific site.

STRATEGIC PRIORITIZATION FRAMEWORK UPDATE FREQUENCY

The Strategic Prioritization Framework along with the CHF scoring matrix is used to rank sites annually. The Framework is updated on an as-needed basis during a TRC meeting.

The Authority Guidance for this document is derived from ECM 10-7 *Central Hazardous Materials Fund Policy and Procedures for Prioritization of Contaminated Sites*.

Attachments

Attachment 1. Revised CHF Scoring Matrix (September 2019)

CHF Scoring Matrix Questions

Human / Ecological Risk

Human Presence

- Remote area, minimal potential for human contact (0)
- Intermittent human use (1)
- Area with regular employee and visitor traffic (2)
- High traffic area with employees and visitors (3)
- Work area with potential daily exposure to employees and visitors (4)
- Residential or school use (5)

Environment

- No likely adverse impact to flora and fauna (0)
- Uncertain impact to flora or fauna (2)
- Known adverse impact to flora or fauna (3)
- Possible adverse impact to threatened or endangered species of flora or fauna (4)
- Known adverse impact to threatened or endangered species of flora or fauna (5)

Relative Toxicity of Contaminants

- Not likely to be toxic (0)
- Unknown (1)
- Systemic toxicant (2)
- Confirmed animal carcinogen with unknown relevance to humans (3)
- Suspected human carcinogen (4)
- Confirmed human carcinogen (5)

Impacted Media (Soil, Sediment, Surface Water, Groundwater, and Air)

- Unknown (0)
- Soil only (1)
- Soil and sediments only (2)
- Soil and groundwater only (2)
- Likely to impact 3 different media (3)
- Likely to impact 4 different media (4)
- Likely to impact 5 different media (5)

Location of Site Relative to Surface Water (e.g. Lakes, Intermittent or Perennial Streams, Wetlands, Ocean)

- Not close and incomplete pathway (0)
- Unknown (1)
- Close, but incomplete pathway (2)
- Close and possible complete pathways (3)
- Adjacent to surface water body, possible complete pathways (4)
- Complete pathway to water body (5)

Aquifer Characteristics

- Impact to groundwater unlikely (0)
- Unknown groundwater uses or impact (1)
- Drinking water source near site, but not within expected contaminant pathway (2)
- Known groundwater use by ecological receptors or livestock (3)
- Drinking water source known or likely to be within zone of influence of site contaminants (5)

Current Site Risks Are Best Described As

- Likely within a reasonable time period to improve without further action (0)
- Relatively static (1)
- Likely to worsen without further action (3)
- Represent an ongoing or imminent threat to human or ecological receptors (5)

Legal Obligations and Regulatory Factors

Site Regulatory Violations Are Best Described As

- No violations have been cited (0)
- Likely to be resolved without further action (1)
- Fines or enforcement action likely without further action at the site (2)
- An enforceable order is now, or will be, imposed (3)

Federal Facility Status / Memorandum of Understanding (MOUs)

- Site is not on the CERCLA Section 120 National Priorities List, nor subject to a Federal Facility agreement (0)
- Site has a MOU with EPA or a State agency (1)
- Site is on the CERCLA Section 120 National Priorities List, or subject to a Federal Facility agreement (2)

Site CERCLA Response Role

- No defined CERCLA response role (0)
- DOI has a support agency role (3)
- DOI is the lead agency at the site (5)

PRP Involvement

Is DOI actively pursuing enforcement against PRP(s) at the site pursuant to its delegated CERCLA authority?

- No PRPs identified (0)
 - There is a viable PRP identified, but negotiations have not yet begun (2)
 - DOI is currently negotiating a UAO, AOC, CD, or other legally-binding document (3)
 - DOI has entered into, a UAO, AOC, CD, or other legally-binding document (5)

Have funds been recovered for past and/or future DOI response costs?

- No (0)
- Negotiations or litigation underway (1)
- Past response costs only (full or partial) (2)
- Future response costs only (all of which have been expended) (reimbursable agreement/reimbursable cost) (3)
- Past and future costs have been or are being reimbursed (5)
- Future dedicated response costs (with the remaining balance in the CHF) (cash out) (6)

Has a PRP (or other 3rd Party) committed to perform response activities at the site pursuant to a legally binding document (UAO, AOC, CD) (in-kind work / cost avoidance)?

- No (0)
- Negotiations or litigation underway (3)
- Yes (6)

Advancement of Secretarial (Strategic Plan) and Mission Priorities

(Refer to CHF call letter for more information.)

1. Does this project meet one or more of the Secretarial Priorities?

- 1. None (0)
- 2. Meets one of the Secretarial Priorities (1)
- 3. Meets two of the Secretarial Priorities (2)
- 4. Meets more than two of the Secretarial Priorities (3)

2. Does this project meet one or more of the Office/Bureau Mission Priorities?

- 1. None (0)
- 2. Meets one of the Office/Bureau Mission Priorities (1)
- 3. Meets two of the Office/Bureau Mission Priorities (2)
- 4. Meets more than two of the Office/Bureau Mission Priorities (3)

Please identify the Secretarial Priorities that this project supports:

Please identify the Office/Bureau Mission Priorities that this project supports:

Attachment 2.

**Central Hazardous Materials Fund
FYXX Site Nomination Data Update Table**
(Dec. 20XX - Feb. 20XX TRC Updates on Funding and Bureau Prioritization)

Bureau	Site Name	State	Scoring Matrix Score	Ready to Execute ¹ "shovel ready" (includes field investigations)	Legal Obligation ² (document enforceable requirement for DOI to "act")	PRP Readiness ³ cost recovery/cost avoidance	Long-Term Monitoring (LTM) and/or Operation & Maintenance (O&M) ⁴	Comment Field (provide/expand on site-specific information and issues)	Total Funding Received	Total Funding Requested in FYXX	Projected Carry-Over	New Funding Request		
				0-6 mos.	Y / N	none	Y / N							
				6-12 mos.		future								
				> 12 mos.		immediate								
				Use these columns for sites close to the funding cut-off line. (These columns will be filled-in before the second TRC meeting.)										

1 = **Ready to Execute** - This includes field investigations, as well as remedies, that are ready to execute funds within the given fiscal year. This takes into consideration that staffing and contracting are in place and ready to go.

2 = **Legal Obligation** - Any type of enforceable legal document requiring the Department/bureau to take action (CDs, AOCs, FFAs, Orders, etc.).

3 = **PRP Readiness** - None= orphan site, no PRP available. Future= PRP identified, but negotiations either not started or ongoing. Immediate= settlement agreement is in place or nearly complete.

4 = **LTM and/or O&M** = Identify if this is a site that is post remedial action and requesting CHF funds for such activities.