

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF LAND RECYCLING AND WASTE MANAGEMENT**

DOCUMENT NUMBER: 251-5500-758

EFFECTIVE DATE: October 8, 1991

TITLE: Reimbursement to Host County for Hazardous Review

AUTHORITY: Under Section 304 of HSCA, 35 P.S. 6020.304, the Department is authorized to reimburse to the host municipality and host county costs associated with the technical review of a permit application or permit modification for a commercial hazardous waste facility. The Monies are to be used by the host county and host municipality to hire an independent consultant experienced in the review of hazardous waste permit applications in Pennsylvania. The review is to be conducted by a licensed engineer and is not to exceed \$50,000 per complete application fold the municipality or \$50,000 per county, for the entire application.

POLICY: The statutory intent of this provision is to provide financial assistance to an affected municipality or county, in which an application for a commercial hazardous waste facility has been submitted. Factors which were taken into consideration to ensure that the intent of the provisions are met include: use of reimbursement moneys, qualifications and responsibilities of the technical consultant, procurement of the technical consultant, conditions for reimbursement and streamline of application procedures:

PURPOSE: This statement describes the Department's policy and procedure under which a host municipality or host county can obtain financial assistance for the reimbursement of costs incurred for professional technical review of a permit application under the Solid Waste Management Act for a commercial hazardous waste disposal facility or for a permit modification that would result in additional capacity for a facility.

APPLICABILITY: This directive applies to all host municipalities/counties where an application for a commercial hazardous waste facility has been submitted to the Department, for a site located within their jurisdiction. In cases where a site is located in more than one jurisdiction, a cooperative agreement should be used and a lead municipality county should be designated. An application for reimbursement of expenditures should be completed and submitted to the Department as per the instructions.

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

PAGE LENGTH: 4

LOCATION: Volume 5 Tab 29

REFERENCES: Act 108, SWMA, Pa. Code Title 25, Chapters 260a-270a.

DEFINITIONS, TERMS, AND ABBREVIATIONS: Are contained in Act 108, SWMA, Pa. Code Title 25, Chapter 260a.1.

SCOPE:

This directive identifies the Department's protocol for the review and reimbursement of costs associated with the technical review of an application for a new commercial hazardous waste facility or for a modification to an existing facility, which will result in additional capacity. The directive applies only to host municipalities and counties

A. Use of Reimbursement Moneys

The statute is very specific in the authorizing of moneys for the purpose of conducting a technical review of an application for a proposed commercial hazardous waste facility. These Moneys may not be used to evaluate an application prior to the acceptance of an application by the Department, unless the Department has deemed the application to be administratively complete. However, if an application is accepted as administratively complete by the Department, pre-review costs may be eligible for reimbursement at the Department discretion.

- (1) Reimbursement moneys can be used to:
 - (a) Hire a technical consultant to review the proposed permit application.
 - (b) Travel to public informational meetings and public hearings related to the application, conducted by the Department. Reimbursement will be set at the current State rate in accordance with Commonwealth Travel Regulations.
 - (c) Prepare comments to DEP, to be signed by an official representative of the municipality or county and by a professional engineer licensed in Pennsylvania.
- (2) Reimbursement moneys can be used to reimburse the municipality for documented use of their engineer, or an engineering firm retained by the municipality or county, for this purpose, provided that the employed meets the requirements of a technical consultant listed in Section B or C.
- (3) Reimbursement monies may not be used for:
 - (a) Expenses for technical consultants to attend training, seminar or conferences.
 - (b) Costs associated with legal actions or proceedings.
 - (c) Costs associated with lobbying activities.
 - (d) Purchasing of any equipment or assets.
 - (e) Any costs not directly associated with the review of the application.

B. Qualifications And Responsibilities of the Technical Consultant

At a minimum, the qualifications needed to perform the type of review intended by the HSCA requires a Bachelor's degree in Science (engineering, geology, hydrology, biology, soils, etc.). All reviews should utilize a professional engineer licensed in the Commonwealth who has had previous experience in preparing applications for commercial hazardous waste disposal facilities under the Solid Waste Management Act. The consultant should be able to demonstrate technical, administrative and management skills.

Responsibilities of the consultant are to provide written commentary on the application for the proposed facility to the municipality or county, for submission to the Department. Commentary should be submitted to the Department on or prior to the closing date for public comments.

The technical consultant must also be able to develop reliable procedures to maintain all records associated with the cost of the review, in order to provide financial accountability to the Department.

C. Procurement of Outside Technical Consultant Services

A municipality or county engineer or an engineering firm on retainer may serve as a consultant. If the municipality chooses to hire an outside consultant, the following will apply:

- (1) Procurement of a technical consultant must be conducted through the competitive bid process to ensure free and open competition.

An official of a municipality or county must not participate in awarding a contract to any firm/consultant, if a member of an official's immediate family is employed by the firm/consultant involved in bidding for consultant services.

Procedure

The attached application must be completed as per instructions. Applications must be from host municipalities or counties and must be delivered or mailed to the following address to be considered for reimbursement:

Pennsylvania Department of Environmental Protection
Attention: Chief, Division of Hazardous Waste Management
Bureau of Land Recycling and Waste Management
PO Box 8471
Harrisburg, PA 17105-8471