Washington State Pollution Liability Insurance Agency

Financial Assurance Program Fact Sheet for Consultants

The Washington State Legislature directed the Washington State Pollution Liability Insurance Agency (PLIA) to transition the Underground Storage Tank Reinsurance Program to a state-led Financial Assurance Program (FA Program). The new state-led FA Program allows PLIA to provide more complete coverage and make claim and coverage decisions. PLIA will directly assist underground storage tank (UST) owners and operators with funds to address leaks, increase successful cleanups, and replace leaking fuel systems. Under the old Reinsurance Program, PLIA provided funds to private insurers who sell insurance policies to UST owners and operators. PLIA paid up to 93% of each $1 million claim with the insurer and customer covering the rest. Reinsurance ensured the availability of policies, but all claim and coverage decisions were made by private insurance companies.

About the FA Program

Federal regulations and state rules require owners and operators of petroleum USTs to demonstrate financial responsibility of up to $1 million for the costs of environmental cleanup in case of a petroleum leak. Many UST owners and operators meet this requirement through private insurance.

PLIA's FA Program provides a new option for petroleum (gas/diesel) UST owners and operators to meet financial responsibilty requirements. UST owners and operators can opt in to the program by submitting an application to PLIA (link to application: https://plia.tfaforms.net/118).

Cleanup work and infrastructure replacement under this program will be performed by PLIA-contracted environmental consultants or businesses. If you are interested in becoming a prime consultant for this program, PLIA will be scheduling a solicitation soon. To learn more, please contact us at pliamail@plia.wa.gov.

Removal of a UST (Source: PLIA)

Program Coverage and Eligible Costs

Petroleum leaks that happen while a tank is enrolled in the FA Program can receive up to $2 million in coverage to clean up leaks and **replace tanks or other infrastructure**. The $2 million includes cleanup for the property where the leak happened and affected properties, and third-party requests for damages.

Coverage for leaks from USTs that happened before enrollment is available for up to $1 million for cleanup. Leaks that happened before enrollment in the Program do not qualify for third-party coverage. This funding is subject to cost recovery by PLIA.

All costs must be approved by PLIA before a PLIA-contracted consultant - or prime consultant - can begin work. Eligible costs in this program include but are not limited to:

- Cleanup actions including:
  - Treatment, removal, and proper disposal of any soil or water contaminated by the accidental release.
  - Proper disposal of nonrepairable tanks or systems.
  - Testing, monitoring, or other assessments.
- Necessary infrastructure replacement costs.
- Replacement costs for a new UST and/or its associated system that meet current regulatory requirements.
- Replacement of some surface features, including surface asphalt and concrete, curbs or lanes, and stormwater drainage.
- Cleanup costs incurred by state or federal agencies responding to a release from an enrolled UST.
- Third-party coverage for bodily injury and property damage.

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The Role of the Prime Consultant in the FA Program

When an enrolled UST owner/operator (Program Participant) has a release from their tank, they will file a Financial Assurance Request (FAR) for funds and technical assistance for cleanup. For releases that occurred after enrollment in the FA Program, Program Participants can also make requests for infrastructure replacement. When PLIA receives an FAR, the agency will assign a PLIA-contracted prime consultant to coordinate the cleanup of affected properties.

Department of Archaeological and Historical Preservation (DAHP) Review

Washington Executive Order 21-02 requires that state agencies consult with DAHP and affected tribal nations on the potential impacts on cultural resources from projects proposed in state-funded construction or acquisition.

Before any work can be performed for FA projects, PLIA staff and a prime consultant will work together to complete an Inadvertent Discovery Plan (IDP) to submit to DAHP. The IDP outlines the exepectations for what should occur if historically significant artifacts are located during the project.

Development of Cleanup Plan

When an FAR is approved by PLIA, PLIA will assign a member of its technical staff to oversee cleanup activities and assign a PLIA-contracted prime consultant to the project to manage the cleanup.

PLIA technical staff will work with the prime consultant to develop a cleanup plan with a timeline, including milestones with dates on which steps in the cleanup process must be met. These steps of the cleanup process are outlined in Chapter 173-340 WAC, MTCA.

During the cleanup process, PLIA staff will work directly with the prime consultant to determine necessary steps and estimated costs of the cleanup.

Workplans

Throughout the project, the prime consultant will work with the Program Participant to develop workplans for the various phases of the cleanup process. The types of workplans for the FA Program include:

- Remedial Investigation Workplan.
- Feasibility Study Workplan.
- Cleanup Action Plan Workplan

Infrastructure Workplans may also be needed, but these only apply to sites with releases that occurred after enrolling in the FA Program.

The prime consultant submits workplans first to the Program Participant for their approval. The prime consultant will then submit the workplan to PLIA technical staff for their approval.

PLIA must approve the workplan and the costs involved before the prime consultant can begin performing the work outlined in a workplan.

Submit Invoices

Once completing work outlined in a workplan, prime consultants submit invoices for payment. PLIA pays consultants directly for the work performed.

Completion of Cleanup Process

Once cleanup actions have been completed, the prime consultant will inform PLIA, submit a final report, and final invoicing.

PLIA technical staff will review the report and determine if the cleanup meets the substantive requirements of the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.

If PLIA determines the site has met MTCA standards, the agency will pay the final expenses and issue a closing letter. Once an FAR is closed, PLIA will provide no further funding for that release.

If you are interested in becoming a prime consultant for PLIA's FA Program, please reach out to PLIA's Administrative Services Manager at xyzlinda.vanevery@plia.wa.gov or 360-407-0515.

To learn more about PLIA's Financial Assurance Page, visit: https://plia.wa.gov/financial-assurance-program/

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