

US EPA ARCHIVE DOCUMENT

Pre-Proposal Project Narrative

Project Description:

The Unified Program (UP) created in 1994, is an innovative multi-media consolidation of six existing State and Federal environmental programs: Underground storage tanks (UST) (RCRA subtitle I), hazardous waste generators (RCRA subtitle C), California Accidental Release Prevention program (CalARP) (Federal ARP), Business Plan (SARA title 3), Spill Prevention Control and Countermeasures Plans (SPCCP) for above ground tanks and Article 80 of the State Fire Code (hazardous materials management plans). Cal/EPA is responsible for overall program development and implementation, certifying qualified local agencies to implement the program and evaluating their on-going performance. State agencies including the State Water Resources Control Board (SWRCB) with primary responsibility for each of the underlying program elements are responsible for setting and interpreting State wide standards and assisting in regular performance evaluations.

Each certified local agency known as a Certified Unified Program Agency (CUPA) is responsible for enforcement of program standards at individual business entities within their jurisdiction. Eighty five CUPAs now fully implement the UP in all areas of California, regularly enforcing program standards at over 120,000 regulated entities of all sizes and types and representing almost all industrial sectors.

Prior to creation of the UP, these individual media programs were implemented separately by over 1300 agencies with disparate permits, fees, inspection procedures and compliance mandates. In the short time since its inception the UP has successfully streamlined and consolidated implementation of all six programs to provide a consistent single point of contact for businesses needing permits, inspections and other program services.

However actual program implementation strategies, developed years before the UP, still rely on routine inspections of all regulated entities regardless of significant differences in compliance history, use of current technology and engineering safeguards, proximity to sensitive receptors and similar risk factors. Widely disparate, inspection frequencies are often statutorily mandated with little consideration of varying risks each program is intended to address. For example, every UST is required to be inspected once a year, while there is no inspection frequency requirement for hazardous waste generators. The largest businesses with the most hazardous materials are subject to the CalARP program and required to be inspected only once every 3 years.

Meeting these challenging inspection mandates leaves limited CUPA resources to address the higher environmental priorities such as those entities with historic compliance problems, outdated equipment or technology, those operating outside the system without necessary UP permits or in geographic areas with disparate impacts. Like all environmental programs the UP should be focused on the highest environmental priorities. Newer strategies building on innovations such as the ERP are needed to make

more resources available to address these higher environmental priorities while using more efficient techniques to ensure continuing compliance at low priority entities.

However, the alternatives proposed for testing by these pilots are expected to be controversial. While some may encounter actual opposition, all will be closely scrutinized and claimed results will be critically reviewed by public, business, environmental and legislative interests.

It is critically important that all pilots be structured and implemented in a manner that enables credible scientific analysis and effective reporting. Necessary expertise for pilots expected in widely varying areas of the state is not available. Grant funding is needed to provide these contractor services.

Additionally important to effective testing of ERP and similar concepts is development of adequate outreach, evaluation and education materials. Once again, CUPA and State resource limitations are expected to hamper developing the most effective tools. Grant funding of contractor services is needed to most effectively implement and test these concepts.

Grant funding and contractor services will be managed by Cal/EPA to provide efficient support of projects located throughout California. An on-going workgroup of Cal/EPA, SWRCB, other related State agencies and the California CUPA Forum, an organization representing all CUPAs, have been developing this proposal and will continue to provide guidance to assist in managing grant funded resources. At this time the workgroup is envisioning 5-7 pilot projects, each one focused on the unique environmental priority of the anticipated 5-7 CUPA participants to test some of these newer strategies in significantly different ways.

Pilots are expected to last 2- 4 years with periodic reporting of agreed upon metrics to monitor progress. Much initial work has been completed by the workgroup including development of an ideal regulatory program model to guide resource allocation changes, standards for application to Cal/EPA for pilot participation, criteria for pilot approval, performance standards and similar materials. The group is continuing to develop specific pilot proposals and ERP concepts are expected to be major components. California has participated in several regional and National ERP meetings to assist in developing these concepts and is currently a learning state in Massachusetts' "Common Measures Project" funded by an EPA Innovation Grant.

In late January and early February, State and CUPA Forum representatives will begin discussions with key stakeholders to obtain their input and suggestions to improve the projects. Additional public workshops, dependent on suggestions of key stakeholders and others, may occur in late spring and summer of 2007. A possible outcome could be a legislative option in the current session or next to enhance current flexibility specifically for these pilots. If implemented in the current session, more detailed pilot proposals are expected to be completed in late summer through winter of 2007. If legislative action is desirable and delayed until next session it is also likely that detailed pilots will be postponed for one year.

Specific pilot proposals will be submitted to Cal/EPA for approval. Through the workgroup function, each of these projects is expected to be developed jointly so that State review and approval would be accomplished in an on-going manner and would not require extensive additional time. Actual implementation will vary with each CUPA pilot dependent on a wide variety of issues including the nature and type of project, their funding and resources, and similar considerations but most are expected to be implemented soon after approval. Progress reports will be required at least once each 6 months and will report on the specific performance measures agreed upon. At the conclusion of each pilot (implementation time frame for each may vary within the established overall timeframe) a performance analysis with recommendations will be prepared to facilitate continued program innovation.

Cal/EPA, related State agencies and the California CUPA Forum have an extremely successful record of cooperative development and implementation of the Unified Program since its inception only 12 years ago. A comprehensive set of program regulations was promulgated, guidance documents for application to become certified, Inspection and Enforcement program development, CUPA evaluation and many similar documents have been jointly developed and implemented. In this time frame numerous local agencies applied for certification, Cal/EPA reviewed applications and certified qualified agencies, evaluated programs and continued working successfully with our local partners. Various legislative changes have been proposed and successfully enacted including consistent administrative enforcement order authority for all UP elements. Training sessions have been jointly developed and presented achieving a degree of consistency remarkable for such a new program. Similar to these past activities, this proposal is a joint work product backed by years of State and Local regulatory program experience and dedication. Similar success is expected.

This proposal represents a major change in the manner in which a significant part of California's environmental regulatory program is implemented. Strategies that prove successful by the end of the pilot project are planned for expansion to all 85 CUPAs providing an immediate impact on 120,000 regulated businesses. Over a little longer term, Cal/EPA's on-going cross media coordination is expected to facilitate similar strategies in related environmental programs.

This proposal is consistent with and furthers EPA's Strategic Plan Objective 5.2 that requires improvement of environmental performance through innovation and Sub-objective 5.2.4 that promotes environmental policy innovation.

**Project Guidelines, Eligibility Standards and Selection Criteria:
Section I A.**

This proposal is fully consistent with EPA's Innovation Strategy. It strengthens EPA's innovation partnership with the State, through participating in a major proposed innovation in one of California's premier environmental regulatory programs. EPA's support for ERP through similar grants and meetings has helped develop concepts included in this proposal. Through awarding this grant, EPA can help move those concepts to California's program. The planned implementation of these newer program

strategies diversifies the environmental protection tools and approaches employed in California as envisioned by EPA's Innovation Strategy. It relies in significant part on the use of information sources to help identify environmental priorities and report program results. The concept is results driven with specific measures and goals to be an integral part of each pilot project. Progress in meeting those measures will be reported at least each 6 months. This grant will be an important element in adopting successful and useful measures of program accomplishment.

This multi-media concept will initially test the approach with a select number of regulated entities in 5-7 jurisdictions in different areas of the State. If successful, and EPA assistance through this grant is an important part of developing that success, these concepts will ultimately impact well over 120,000 businesses of all sizes and types and in almost all business sectors. The opportunity to transfer California's successful experiences, and lessons learned, with such an extensive group of businesses, and across a number of media is unparalleled. Longer term the potential for expansion within California to other media will impact many more regulated entities and provide even greater opportunities for information sharing.

Section I B

Each CUPA issues permits to the regulated entities within its jurisdiction in accordance with the "single permit" concept found in both the UP statutes and regulations. However with a few exceptions, permits are not mandated allowing for substantial flexibility in how and when a permit is actually issued. Although details of specific pilots have yet to be developed it should be noted that at least one CUPA has currently implemented a system of rebating permit fees for outstanding compliance and another has reduced permit fees and inspection frequencies for good compliance. While these are both constrained by existing standards that this project may revise, it is illustrative of the direction some pilots are likely to develop. Additional innovation in permitting is also under consideration.

California's interest in the Environmental Results Program (ERP) has increased in recent years following participation in various meetings and projects as noted above. CUPA interest is equally high and incorporation of ERP concepts is expected to be part of pilot proposals with potential subsequent expansion across program lines.

The common intent of these pilots is to enhance environmental performance by tailoring our regulatory approach to the need demonstrated by the best available information. Creativity is necessary to enable direction of resources to address the highest environmental priorities while concurrently ensuring a high level of compliance by all entities. More efficient use of limited resources is expected to improve compliance of entire business sectors, enable increased use of risk based targeting to focus resources where they're needed most and a corresponding reduction in oversight of well performing entities.

Central to this project is the use of meaningful metrics to measure results and enable effective continuous targeting of resources to emerging environmental priorities in specific geographic areas, business sectors or other environmental areas.

This proposal is a cultural shift for California's regulatory programs requiring an initial pilot approach with careful and credible analysis of results. The availability of grant funding will facilitate the necessary level of development and analysis.

Section I C

Each UP program element implements both State and Federal law in California. The hazardous waste element implements that part of California's RCRA Subtitle C authorization. The UST element enforces RCRA Subtitle I, the CalARP element enforces the Federal Accidental Release Prevention Program, the Business Plan element enforces SARA Title 3, and the above ground tank element enforces the Federal Spill Prevention Control and Countermeasures program.

Section I D

As noted above, this proposal implements EPA's Strategic Plan, Objective 5.2 through innovative efforts to improve environmental performance and Sub-objective 5.2.4 that promotes environmental innovation. The concepts attempted in this proposal are among the most innovative of any environmental regulatory program in California and are intended to set the standard for application beyond the UP.

Section I E

Developing and implementing meaningful output and outcome metrics to effectively measure progress and enable useful communication of results is a fundamental component of these pilot projects. Reports based at least every six months that track agreed upon metrics are required. While actual output metrics will vary depending on the specific nature of each pilot, they are expected to include, in addition to historic inspection and enforcement metrics such activities as, numbers of industry and community workshops and training sessions, numbers of attendees, nature and number of compliance assistance activities, and number and type of training materials developed and delivered .

Outcome metrics are expected to include such things as measuring changes in regulated entities knowledge or understanding of compliance mandates and pollution prevention options, industry sector compliance rates, completion and accuracy of self-certification reports, reductions in risk factors such as type and amount of hazardous material used, produced or stored, changes in numbers, types and amounts of releases, improvements in leak detection, monitoring or prevention technology or engineering safeguards.

One of the proposed uses for requested grant funding is assistance in development of appropriate metrics. As each pilot is developed, the specific output and outcome metrics necessary to measure and report performance will be developed concurrently. Pilot approval is dependent on incorporation of measurable results.

Section II

Although some pilots may continue beyond the grant time period, most are expected to be completed prior to that date. Cal/EPA will prepare and submit a detailed report of completed project outputs and outcomes by September 30, 2011.

Specific contractors have not yet been selected. Once grant funds are committed contractor cost and value analysis will be conducted in accordance with State and Federal law. All additional competitive bidding and similar legal requirements will be complied with.

Section III Threshold criteria #1

The Unified Program implements activities authorized or required under various Federal laws within California. This proposal is an investigation or test of alternative strategies designed to demonstrate to California regulators, industry, legislators, public and environmental advocates the expected increased efficiency and effectiveness of several newer compliance approaches. California's environmental leadership position also

provides a unique opportunity for this kind of information transfer to other States and Tribal entities.

Section III Threshold criteria #2

This multi-media, multi-statute, proposal's general focus is wholly consistent with EPA's strategic plan promoting innovation as noted above. Consistent with the Request for Proposal, it will "carryout the purposes of" the underlying Federal laws also described above.

It should be noted that the UP is one of California's broadest and most effective regulatory programs. Through statute, regulation and policy the UP is implemented in close coordination with many other environmental regulatory, law enforcement and prosecutorial agencies. Program innovations with demonstrated success will be quickly and widely disseminated through routine coordination, electronic information exchanges, the annual training conference and a number of other systems

Public Involvement:

Beginning in January 2007 State and Local project leaders will begin discussions with key industry, legislative and environmental advocacy groups. Additional public workshops in major cities throughout the state are expected to follow and provide a broader audience the opportunity for input to the general proposal. Workshops may also be scheduled within a CUPA jurisdiction to discuss that CUPA's specific pilot. Suggestions, comments and concerns voiced in these forums will be used to revise both the general concept and specific pilot projects.