Special Accounts Senior Management Committee

June 5, 2012

Agenda

- Highlights Past 6 Months
- Compass Issues
- Using Special Accounts for RCRA Corrective Action
- Communications about Special Accounts
- Other Issues Under Development
- Review Action Items and Next Steps

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Highlights Past 6 Months

- Issued memo on use of special account funds to facilitate work settlements with PRPs (January 2012)
- Issued annual report to EPA senior managers on SASMC activities (March 2012)
- Briefed House Appropriations Committee staff on special accounts (March 2012)
- Issued memo on effective utilization of special accounts (April 2012)
- Conducted special account mid-years (March – May 2012)

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Compass Issues

OCFO and OSRTI

Available Balance Issues

- Early March 2012
  - Special account receipts converted from IFMS into Compass were double-counted.
  - FY 2012 obligations entered in Compass weren't applied against some special accounts.
- Mid-years were conducted based on special account available balances as of March 8th
  - Balances were overstated as a result of issues above.
- Issues resolved on April 20th

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Recertification of Reclassified Funds

- Database to request recertification of deobligated no-year funds is not yet operational.
- Regional deadlines are shortening window for regions to process reclassifications, request recertification, and obligate funds.
- Special account reclassifications planned for this fiscal year may not be completed due to inability to recertify funds.

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Recertification of Reclassified Funds, cont.

- Options
  1. Exemption 5 - Deliberative Process [redacted]
  2. Exemption 5 - Deliberative Process [redacted]
  3. Exemption 5 - Deliberative Process [redacted]

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Special Account Reporting Concerns

- The Beginning Budget Fiscal Year (BBFY) in Compass for reimbursable resources is based on the fiscal year the account receivable is established.
- In FY 2012, there are only 2 BBFYs
  - BBFY 2011 for all receivables established as of September 30, 2011.
  - BBFY 2012 for receivables established October 1, 2011 or after.
- Current reports for special accounts do not account for funds available by BBFY, only fund code.
- CFC is modifying current reports in CBOR to include BBFY and fund code to allow regions to request and spend resources in Compass.

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Using Special Accounts for RCRA Corrective Action

OSRE

OGC Opinion

- OGC provided a legal opinion on April 27, 2012 on the use of funds in special accounts to support RCRA corrective action.
- The following are the legal principles and 4 scenarios outlined in OGC's opinion.

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Legal Principles

- Exemption 5 - Attorney-Client Privilege [redacted]

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Exemption 5 - Attorney-Client Privilege

- [redacted]
- [redacted]
- [redacted]

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Exemption 5 - Attorney-Client Privilege

- [redacted]
- [redacted]
- [redacted]

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Exemption 5 - Attorney-Client Privilege

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Exemption 5 - Attorney-Client Privilege

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Exemption 5 - Attorney-Client Privilege

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

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Next Steps

- Communicating options with regions.
- Exemption 5 - Deliberative Process
  - Exemption 5 - Deliberative Process

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Communications about Special Accounts

OSRTI

Recent Inquiries about Special Accounts

- Since January 2012 EPA has received the following inquiries about special accounts:
  - Government Accountability Office: January 2012 report on the status of EPA's special accounts.
  - Senator Inhofe correspondence: February 2012 letter on the unobligated balance in the Superfund Trust Fund.
  - House Energy and Commerce Committee: Staff questions on availability of special account balances to the public.
  - House Appropriations Committee: February 2012 initiated an inquiry by Surveys and Investigations Staff.
  - Office of Management and Budget: Briefing April 2012 on reclassifying available funds and closing accounts.

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Special Accounts on the EPA Internet

- Information was updated March 2012
  - Updated information in general.
  - Added Davis Liquid Waste success story.
  - Added 'Status of Special Accounts' with cumulative statistics on # and $ in special accounts.
  - Added information on actions EPA has taken to improve the management of special accounts.
- OSRE will continue to maintain special accounts information on the internet.
- http://www.epa.gov/compliance/cleanup/superfund/spec-acct.html

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Developing Special Accounts Communications Strategy

- Goals for Special Accounts Communications Strategy
  - Create a consistent, “unified voice” about Superfund special accounts.
  - Instill confidence about EPA’s ability to effectively manage and use special account funds.
  - Make stakeholders aware that special accounts are an essential component to protecting public health and the environment while advancing the Superfund program’s positive economic effects.
  - Disseminate consistent message(s) to stakeholder groups that special accounts enable the Superfund program to conduct more cleanup work than it would otherwise be able to do.

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Draft Communications Strategy

- Special account overarching messages and specific facts to support broader Superfund program messages and themes.
- General special account background information for materials.
- Identifies communication opportunities for special accounts.
- Update at least once a year.

Communications Strategy – Next Steps

1. Develop standard materials to respond to inquiries and requests about special accounts.
   - General fact sheet about special accounts.
   - Standard special accounts 101 presentation (up to 10-15 slides) for introductory oversight and management briefings.
2. Making special account information available on the internet.
   - Exemption 5 - Deliberative Process [redacted]
3. Finalize communications strategy.
   - Incorporate into 2013 – 2014 Special Accounts Management Strategy and the National Superfund Communication Strategy.

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Other Issues Under Development

- Depositing financial assurance under a Unilateral Administrative Order (UAO) in a special account.
- Evaluate implementation of April 2012 'Effective Utilization' memo at FY 2013 work planning and mid-years.
- Use of funds set aside to support special account management.

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Review Action Items and Next Steps