Used Oil Payment Program (OPP)
GUIDELINES for CYCLE 2
FY 2011/12

May 2011

Submittal of an OPP Application constitutes acceptance of these Guidelines as the controlling requirements for receiving, spending, and accounting for OPP funds and for annual reporting. The Application and these Guidelines shall constitute the OPP Agreement.

OVERVIEW AND STATUTORY AUTHORITY

The California Public Resources Code (PRC) §48601 et seq. describes the California Oil Recycling Enhancement Act (Act), which, among other things, provides up to $11 million annually in payments to local governments for implementation of local used oil and filter collection programs. The Used Oil Payment Program (OPP) authorized in Senate Bill (SB) 546 (Lowenthal, Chapter 353, Statutes of 2009) replaces the Used Oil Block Grant Program (UBG). While the purpose of the OPP is similar to the UBG, there are significant differences regarding the Application, administration, and reporting requirements. The Department of Resources Recycling and Recovery (CalRecycle), formerly the California Integrated Waste Management Board (CIWMB), is responsible for administering the OPP.

These Guidelines describe the Application and administrative processes to implement the OPP Cycle 2. Consistent with the intent of SB 546, the OPP is designed to streamline administrative requirements within a fiscally sound framework. Payment Recipients (Recipients) are responsible and accountable for ensuring that expenditures are appropriate and that proper internal supporting documentation is maintained. To ensure full compliance with OPP's processes and requirements, OPP Applicants/Recipients should carefully review and adhere to these Guidelines and the program provisions set out in the Act, paying particular attention to PRC §§ 48674, 48690, and 48691.

PROGRAM ADVISOR COORDINATION

A Program Advisor (Advisor), previously known as a Grant Manager, is assigned to each Recipient to provide assistance and/or guidance in developing or enhancing a successful used oil collection program.

ELIGIBILITY AND THE APPLICATION PROCESS

Local governments that comply with PRC §§ 48690 and 48691 are eligible to apply for and, if approved, receive payment through the OPP. Generally, Applicants are required to have a used oil collection program, which includes at least one certified used oil collection center per 100,000 residents and/or a curbside program that includes used oil collection at least monthly, and a public education program that informs the public of locally available used oil recycling opportunities. For specific and additional requirements, see PRC §§ 48690 and 48691.

To apply for this Cycle, the local government or the governmental entity acting on behalf of the local government must: (1) submit a completed online Application to CalRecycle by June 30,

2011, and post an electronic (scanned) version of the signed Application Certification page in the online system; (2) retain in its OPP file the original hard copy of the Application Certification page signed by Applicant's Signature Authority; and (3) submit by August 1, 2011, the applicable required authorizing documents (see the AUTHORIZING DOCUMENTATION section below). Additional application information is available at the OPP Cycle web page. If you have any questions regarding the Application process, please call (916) 324-8867 or send an e-mail to: GrantAssistance@CalRecycle.ca.gov; technical assistance will only be provided until 5:00 p.m. on June 30, 2011.

In addition to the above Application requirements, the Applicant must: (1) submit by August 15, 2011, a completed online Annual Report for all UBG and/or OPP cycles active during the preceding fiscal year for approval by the Advisor; and (2) have no outstanding debt(s) owing to CalRecycle. (Refer to the ANNUAL REPORTING section for additional information on reporting activities.)

Note: A WebPass and online system access is required to complete and submit the online Application. If you already have a WebPass for the UBG Reporting system, use the same WebPass for the OPP. If you do not have a WebPass, you should immediately obtain one in order to allow adequate time to use the new online Application system and minimize delays in the Application process.

AUTHORIZING DOCUMENTATION: RESOLUTIONS, LETTERS OF COMMITMENT, AND LETTERS OF AUTHORIZATION, LETTERS OF DESIGNATION

Examples of Resolutions, Letters of Commitment, Letters of Authorization, and Letters of Designation can be found at this examples link.

Applicants, subject to a governing body, are required to submit an adopted Resolution that: (1) authorizes submittal of OPP Applications; and (2) identifies the name of the job title (rather than the name of a person) authorized to sign on behalf of the Applicant (Signature Authority). [Refer to the OPP website for specific due dates and timelines related to submission of these documents.] Resolutions must be specific to the OPP; previous Resolutions referencing the UBG will not be accepted. Unlike used oil grants, Resolutions for the OPP may be "open ended." That is, rather than specifying an end date, the Resolution may state that it is effective "until rescinded." If such an "open ended" Resolution is not appropriate for your jurisdiction, an Applicant may submit a Resolution for a shorter term and must include a specific end date.

Applicants not subject to a governing body must submit a Letter of Commitment. This letter must: (1) be prepared on the Applicant's official letterhead; (2) authorize submittal of OPP Applications; (3) contain a specific end date or state that it is effective until rescinded; (4) identify the job title (rather than the name of the person) of the person authorized to execute all documents necessary to secure OPP funds (Signature Authority). and (5) be signed by a person with authority to contractually bind the Applicant. As discussed above for Resolutions, authorizations pursuant to this Letter may be effective "until rescinded."

For regional Applications, the lead jurisdiction (Regional Lead) must submit an adopted Resolution or Letter of Commitment (as appropriate), and in addition to the above requirements, state that it is applying as a Regional Lead. Each participating jurisdiction (Regional Participant)

must submit a Letter of Authorization (or other applicable document as provided in the examples) **to the Regional Lead** that authorizes its Regional Lead to apply for the OPP, implement the program, and administer the OPP funds on its behalf. *A new Letter of Authorization is required from each Regional Participant for each new OPP Application cycle and will be uploaded to the application system by the Regional Lead.*

The choice of the Signature Authority is very important because this individual is responsible for signing all OPP documents for the entire two year cycle. When authorized by Resolution or Letter of Commitment, an Applicant's Signature Authority may issue a Letter of Designation, which delegates to another person (identified by job title rather than name) the authority to sign and submit required OPP documents, such as Applications, Annual Reports, or extension requests. This delegation may be done either at the time of Application or later; however, it must be uploaded (by the Applicant) into the OPPO application system and accepted by CalRecycle staff prior to the Designee's exercise of his/her authority. A Letter of Designation must: (1) be prepared on the Applicant's official letterhead; (2) contain a specific end date or state that it is effective until rescinded by the identified Signature Authority; (3) identify the job title of the Designee; (4) identify the scope of the Designee's authority; and (5) be signed by the Signature Authority.

Applicants must scan and upload (as a pdf document) the applicable documents addressed above into the online system, and retain the original signed hard copy in its OPP file. If the Applicant is unable to upload any of these documents, please call (916) 324-8867 or send an email to: GrantAssistance@CalRecycle.ca.gov.

NOTICE OF AWARD

Upon approval of Applications and Annual Reports, Recipients will be notified in writing that an OPP award has been made and that they are authorized to incur costs and expend funds in furtherance of their programs. A listing of the award amounts for all Recipients will be posted at the OPP Cycle web page.

Costs incurred or funds expended prior to the receipt of written notification of award are done so at the Applicant's/Recipient's own risk.

DENIAL OF APPLICATION

If an Application is not approved, CalRecycle will notify the Applicant and provide the reasons for denial of the Application. Due to the time constraints in administering this program, all decisions are final. In such cases, potential Applicants are encouraged to contact and work with CalRecycle to ensure that jurisdictions meet the minimum requirements prior to the next Application cycle.

TERM AND PAYMENTS

The OPP term is 24 months; the term runs from July 1, 2011 through June 30, 2013. Payment will be made by CalRecycle to Recipients in April 2012 . Funds for this cycle must be expended by the end of the term, June 30, 2013, or returned to CalRecycle as described in the UNSPENT FUNDS section below.

An Applicant/Recipient may request (as part of the Application process) receipt of its annual payment in October 2011. In order for CalRecycle to approve this request, the requesting

jurisdiction must demonstrate that other funds are not available (such as prior year UBG or OPP monies).

Tracking and reporting of interest earned (if any) is not required for the OPP.

Recipients may request a 6 month extension of this term. At least 90 days prior to the end of the cycle term, the Signature Authority may submit an extension request to their Advisor outlining compelling reasons (such as an equipment purchase or other expense that exceeds two annual payment awards) that warrant consideration of the extension. Recipient's inability to spend the entire payment amount within the term is not an acceptable reason; and repeated requests for extensions are not favored. Extension requests will be decided on a case by case basis. Approval of requests shall not be unreasonably withheld. Advisors will respond to the Signature Authority within 30 days of receipt of the request.

State funding is always subject to availability based on an approved State budget. Delays in the State budget approval process may impact the timing of automatic payments.

PROGRAM EXPENDITURES AND COSTS

All expenditures must be for the purposes of establishing and maintaining a used oil program as discussed in the OVERVIEW AND AUTHORITY section of these Guidelines. Costs must be incurred and/or accrued during the term for which they are reported.

Used oil and used oil filter collection and recycling activities, educational activities, and stormwater management are statutory components of local used oil collection programs (PRC § 48691). Accordingly, these activities should be the focus of OPP expenditures.

With the exception of developing, purchasing and distributing Used Oil Program Material discussed in ELIGIBLE COSTS below, preapprovals by CalRecycle are not required for eligible OPP expenditures.

Recipients must account for all OPP funds in a manner that provides for clear tracking of expenditures in accordance with Generally Accepted Accounting Principles. Proper business procedures dictate that OPP supporting documentation (including, but not limited to, the original signed Application Certification and Annual Report summary pages, invoices, payroll registers/logs, travel expense claim forms, etc.) be retained in a single file to facilitate review and retention. Recipients must follow their jurisdiction's purchasing and/or contracting policies/requirements and ensure the proper and exclusive use of items purchased with OPP funds.

OPP funds are subject to audit (refer to RECORDS RETENTION AND AUDIT CONSIDERATIONS section). Audit findings against Recipients can result in the need for reimbursement of the subject OPP funds, and/or ineligibility for future OPP funds.

ELIGIBLE COSTS

Eligible costs include, but are not limited to:

- Establishing, maintaining, and/or enhancing used oil and used oil filter collection/recycling programs.
- Developing, purchasing and/or distributing useful educational materials informing the public about used oil and used oil filter collection and recycling. Examples include, but are not limited to, newspaper advertisements, brochures, flyers, and utility inserts.
- Developing, purchasing and/or distributing the following Used Oil Program materials that have a functional purpose associated with an environmental benefit: marine absorbent bilge pads, oil funnels, oil drain containers, oil change rags, new oil filters for exchanges, Ziploc-type filter bags, cardboard creepers, filter wrenches, dirty filter recycling containers, maps of collection centers, and tide charts. Advisor approval is required for items not on this pre-approved list.
- Stormwater mitigation activities pursuant to PRC § 48691.
- Certified Unified Program Agency (CUPA) or other agency inspection fees directly related to establishing and maintaining an effective oil and oil filter collection and recycling program.
- HAZWOPER 8-hour refresher course.
- Indirect/overhead costs up to 10% of the OPP eligible expenditures. (Note: This limitation applies to Recipients and consultants/contractors who administer and/or implement a program.)
- Reasonable costs for a consultant or contractor to administer and/or implement Recipient's OPP funded used oil program.
- Purchase or rental of storage facilities dedicated to oil-related activities and supplies; installation of ancillary structures solely for protection of oil related equipment and/or supplies.

INELIGIBLE PROGRAM COSTS

Any expenditure that does not support used oil and/or used oil filter collection and/or recycling activities, educational activities, stormwater management, or expenses not directly related to Recipient's (or consultant's/contractor's) administration of the OPP are ineligible for funding.

Ineligible costs include, but are not limited to:

- Costs incurred before July 1, 2011 or after June 30, 2013.
- Developing, purchasing and/or distributing of strictly promotional give-away items. Examples include, but are not limited to, key chains, letter openers, squeegee toys, coffee mugs, water bottles, Frisbees, hats, t-shirts, chip clips, pens, pencils, beanie babies, screwdrivers, coloring books, small recycling containers for pencils, dried sponges, flash drives and reusable bags.
- Purchasing or leasing of land or buildings.
- Costs currently covered by or incurred under a separate CalRecycle loan, grant, or contract.
- Remediation activities (any cleanup or restoration of polluted areas).
- HAZWOPER 40-hour and 24-hour courses.

- Enforcement activities.
- Preparation of Household Hazardous Waste (HHW) elements.
- Development of any HHW permanent facility on non-local government-owned property.
- Transportation and disposal of non-oil HHW from any facility or event.
- Maintaining equipment, materials, or supplies at HHW facilities or ABOP (antifreeze, battery, oil, and paint) facilities not directly related to the collection of used oil and used oil filters.
- Fines or penalties due to violation of federal, State or local laws, ordinances, or regulations, including CUPA fines or penalties.
- Employee time off (vacation or sick leave), overtime costs, or Compensated Time Off (except for local government staffing during specially scheduled evening or weekend events outside of staff's normal work hours when law or labor contract requires overtime compensation).
- Food or beverages (e.g., as part of meetings, workshops, or events).
- Cell phones, pagers, cameras, personal digital assistants, and other similar electronic devices.
- Out-of-state travel or travel expenditures that exceed the State rate (for hotel and meal rates, see Department of Personnel Administration provision 599.619 or ask your Advisor for hotel maximum rates and for meals and incidentals). If, in order to reach an in-state destination, travel is reasonably required outside the border of California, this is not considered "out-of-state travel." [For audit purposes, expenses exceeding the State rate, involving travel outside the border, or that are contrary to other terms in this provision, should be explained in writing and kept in the OPP file.]
- Expenses for audits of the Recipient's entire organization, or portions thereof that include a review of the UBG, OPP, or Used Oil Opportunity (or its successor program) or other competitive grants.
- Any costs not consistent with local, State, or federal laws, guidelines and regulations.
- Any costs "excessive" or "unreasonable" as determined by CalRecycle or its auditors.

PUBLICITY AND EDUCATION REQUIREMENTS

Used Oil Program material must directly relate to used oil, used oil filter collection and recycling, proper oil disposal practices, and/or other OPP activities and are functional as discussed in ELIGIBLE COSTS, or either encourage behavioral change or provide an educational opportunity for the public. Used Oil Program material must be appropriate for the target audience, durable, and not likely to be disposed of in a short time or contribute to the waste stream or hazardous waste stream (e.g., any item containing batteries, mercury, etc.).

Stormwater and HHW recycling program messages may be incorporated with the used oil recycling message on publicity and education items. The funding level for the publicity and education portion for these programs is 50% for any item which contains a reasonable mention of used oil and/or used oil filter collection and recycling; and, 100% if over half of the text or image(s) relates to used oil and/or used oil filter collection and recycling.

Acknowledgement: The following acknowledgement of funding should be included on Used Oil Program material, in advertising, and in public education information:

"Funded by the Department of Resources Recycling and Recovery (CalRecycle)." or

"Funded by CalRecycle."

For materials produced in Spanish, use the following:
"Financiado por el Departamento para el Reciclaje y Recuperacion de Recursos (tambien conocido como CalRecycle)." or "Financiado por CalRecycle."

For Used Oil Program material, the acknowledgement need not be included if space is limited and/or it would interfere with the message.

Advertising and Public Education: Materials must provide:

- Information on used oil and used oil filter collection and recycling/disposal.

- A list of used oil collection centers within the targeted community or a local telephone number or website to obtain further information on local collection centers. (Use the 1-800-CLEANUP number or Earth911 website if your jurisdiction does not maintain its own 24-hour hotline.)

- The "Used Oil Drop" logo with the words "Recycle Used Oil" or "Recycle Used Oil and Used Oil Filters" as appropriate. On any material produced in four or more colors, use the State colors (blue oil drop on yellow background) for this logo. (The color designation for professional printing is Yale Blue-Pantone 286C; Golden Yellow-Pantone 123C.)

Oil program related graphics and signs are available on CalRecycle's website.

SITE VISIT REQUIREMENTS

For Recipients who administer their used oil program in coordination with a Certified Collection Center (CCC), it is a program requirement that a site visit be made annually to a minimum of one CCC site per 100,000 residents being served by the used oil program. When a site visit is made, the jurisdiction is to complete a Site Visit Checklist form. One of the three available forms may be used—CalRecycle 664, CalRecycle 664-SP or 665--as appropriate for the jurisdiction. The newest versions of these forms may be found under "Used Oil Recycling"on the relevant forms web page. The completed forms are to be retained in the cycle file and jurisdictions will report the total number of site visits made by the jurisdiction in the online Annual Report.

RECORDS RETENTION AND AUDIT CONSIDERATIONS

Recipients are responsible and accountable for all OPP funds; therefore, it is essential that adequate documentation and a clear paper/audit trail are maintained. Recipient accounting of OPP funds must be maintained in a manner that provides clear separate tracking of OPP funds and related transactions for fiscal program management and audit purposes.

CalRecycle, the Department of Finance, the Bureau of State Audits, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the use of OPP funds; and shall have the right to interview staff relevant to the audit. All such records shall be maintained for possible audit for a minimum of three (3) years after the OPP term end date, or until completion of any action and resolution of all issues, which may arise as a result of any litigation, dispute, or audit, whichever is later.

Recipient shall include the above provision in all contracts and subcontracts funded in whole or in part from OPP funds.

Examples of documentation subject to audit include, but are not limited to, expenditure ledgers, payroll register entries, time sheets, travel logs, paid warrants, contracts and change orders, samples/pictures of items and materials developed with OPP funds, invoices, receipts, and canceled checks.

ANNUAL REPORTING

Annual Reporting is a statutory requirement for ongoing eligibility for the OPP. Recipients must meet CalRecycle's online reporting requirements. The Annual Report for this Cycle must be submitted no later than August 15*, of each calendar year (commencing August 15, 2012). Failure to meet this reporting due date may result in the denial of future funding.

*When a due date falls on a Saturday or Sunday, the online report must be submitted by the following Monday.

Upon completion of the online Annual Report (including the expenditures portion of the report), the Report Certification page is to be printed out and given to the Signature Authority for approval and signature. The signed Annual Report Certification page is to be uploaded to the online system (by the Recipient) and the original signed hard copy is to be retained in the Recipient's cycle file. If the Recipient is unable to upload the signed Annual Report Certification page, they should scan and email or fax it to their Advisor for uploading. Advisors will review for approval the submitted reports.

All expenditures will be reported through the Oil Payment Program Online (OPPO) system. Failure of Recipient to properly spend or account for OPP funds may result in denial of future OPP funding for Recipient, requiring reimbursement from Recipient and /or Recipient's forfeiture of funds. Definitions for the OPP expenditure categories can be found on the definitions page.

UNSPENT FUNDS

Funds that are unspent at the end of the OPP term must be reimbursed by check to CalRecycle within 45 days of that date. Checks must contain the OPP number (i.e., OPP1-10-xxxx), specify "OPP Unspent Funds," and be mailed to: CalRecycle, Accounting, P.O. Box 4025, Sacramento, CA 95812-4025. If there are questions or other issues related to expenditures, work with your Advisor to resolve these issues. Funds due to CalRecycle but left unpaid may result in a Recipient not being eligible for future OPP funding.

EXCEPTIONS

These Guidelines govern the administration of the OPP. Under compelling circumstances "exceptions" may be granted on a case-by-case basis by your Program Advisor. Requests for exceptions must be made and approved in writing. Work with your Program Advisor if you have questions.

DISCRETIONARY TERMINATION

The Director of CalRecycle or his/her designee shall have the right to terminate this Agreement

at his or her sole discretion at any time upon thirty (30) days written notice to the Recipient. Within forty-five (45) days of receipt of written notice, the Recipient is required to:

a) Submit a final written report to the appropriate Advisor describing all work performed by the Recipient and provide an accounting of all funds expended up to and including the date of termination; and,

b) Reimburse CalRecycle any unspent funds.

APPLICATION CHANGES

Once an Application has been approved by CalRecycle, the Recipient and/or any regional participant that has submitted a Letter of Authorization, may not withdraw or amend their Application.

Once approved, the Recipient/Regional Lead is contractually bound to carry out the used oil program in accordance with the OPP Guidelines.

TERMINATION FOR CAUSE

In the event the Recipient fails to comply with the requirements of these Guidelines at the time and in the manner herein provided, CalRecycle may terminate the OPP Agreement.

Recipients are encouraged to discuss any problems they may have in complying with these Guidelines with their Advisor to determine if CalRecycle can be of assistance.

INDEMNITY

Recipient agrees to indemnify, defend and save harmless the State and CalRecycle, and their officers, agents, and employees from any and all claims and/or losses accruing or resulting from the performance of OPP.

COMPLIANCE

Recipient shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits.

USED OIL PAYMENT PROGRAM DEFINITIONS

For purposes of the OPP, the following definitions apply:

Consultant: A professional who advises on or manages the OPP on behalf of an OPP Recipient.
Contractor: An individual, business or company with which the Recipient enters into an agreement to perform program-related services or activities including providing materials or supplies for oil and oil filter collection/recycling projects. (Note: Also refer to the Subcontractor definition.)
Indirect/Overhead Costs: These costs are expenditures not capable of being assigned or not readily available to a particular project or activity but considered necessary for the operation of the Recipient's business and the performance of the OPP. Examples include costs of operating and maintaining facilities, accounting services and administrative salaries.
Letter of Authorization: A letter submitted by a Regional Participant to authorize another jurisdiction (Regional Lead) to apply for and to act on its behalf in the implementation and administration of the OPP.

Letter of Commitment: A letter from an Applicant, not subject to a governing body, that authorizes submittal of OPP Applications.
Letter of Designation: A letter submitted by an Applicant's Signature Authority that delegates his/her authority to another individual (identified by job title not name) as authorized in the Resolution or Letter of Authorization. The person to whom this authority is delegated is the "Authorized Designee."
OPP: The acronym means the Used Oil Payment Program (see Used Oil Payment Program definition below).
Program Advisor or Advisor (previously known as Grant Manager): The CalRecycle staff person responsible for monitoring the OPP and related program activities for a particular jurisdiction.
Payment Recipient or Recipient: The recipient of funds pursuant to section 48690 of the Public Resources Code. The recipient may be a local government (which includes any chartered or general law city, chartered or general law county, or any city and county) and/or a public agency/entity or special district that has been given the authorization to act on behalf of a local government.
Signature Authority: The title of the person authorized by an adopted Resolution, Letter of Commitment, or Letter of Designation to sign all grant related documents on behalf of the authorizing entity.
Subcontractor: An individual, business or company with which the Recipient's Contractor enters into an agreement to perform program-related services or activities, or provide materials or supplies for oil and oil filter recycling/collection-related projects, services or activities.
Used Oil Payment Program (OPP): The the Used Oil Program established pursuant to Public Resources Code § 48690 et seq., that provides payments/funding to eligible participants for establishing and maintaining an effective local used oil and used oil filter collection/recycling program.
Used Oil Program Material: Materials consistent with information in the PUBLICITY AND EDUCATION REQUIREMENTS section.

RECYCLE
USED OIL