

# Deepwater Horizon Event Oil Spill Claims Information Update for Local Government



Louisiana Legislative Auditor

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**Introduction:** This document is intended for those Louisiana municipalities affected by the April 20, 2010, Deepwater Horizon explosion and resulting oil spill in the Gulf of Mexico. It is intended specifically for cities, towns, and villages (CTV). The information is provided to assist municipal officials with filing claims related to lost revenue and increased costs resulting from the oil spill. This document is available on the Legislative Auditor's Web site at [www.la.la.gov/disasterassistance](http://www.la.la.gov/disasterassistance).

These are strategies that your municipality should address to be successful in your recovery efforts.

- **Build Your Team** - Consult your city attorney, bond attorney, financial advisors, CPA, and key staff to identify who can best assist you in determining what action your municipality should take regarding claims and other issues related to the oil spill.



Source: Courtesy United States Coast Guard

- **Understand the Claims Process** - Municipal officials should acquaint themselves with the resources available through BP, state agencies, and federal agencies (see page 4). Also, local officials should network with their parish governments and neighboring municipalities, and should call on the Louisiana Municipal Association (LMA) for assistance.
- **Assess Your Situation** - Determine the extent of damages incurred including possible future loss of revenues and increased expenditures. Remember, just because you do not see current effects, you should consider possible long-term effects. For example, revenue losses may not be apparent while the clean-up effort is underway.
- **File a Well-Documented Claim** - The burden placed on municipalities from the oil spill and its aftermath can only be remedied by filing a claim with thorough supporting documentation. Review the claim filing and documentation requirements carefully before filing (see page 4).
- **You Can Appeal** - If a claim is denied, the municipality can ask the responsible party to review the claim again. If BP denies a claim or a claim goes unsettled for 90 days, you can submit a claim to the National Pollution Fund Center (NPFCC) which administers the Oil Spill Liability Trust Fund (see page 4). If the municipality does not receive full compensation for its claim, the municipal government should consult its local legal counsel and the attorney general regarding its legal remedies.

### Loss of Local Government Revenues

Through our contact with municipalities, we found that three key industries were adversely affected by the oil spill and resulting oil drilling moratorium. Negative effects on the **oil industry, seafood industry, and tourism** have resulted in loss of revenue for many local governments. Although these are not the only industries that may have been affected, adverse effects to them have driven many of the revenue losses in the categories presented below.

A number of taxes, fees, and fines have been and could be affected in the future by the spill. Below, we present potential types/categories of losses. This is not a comprehensive list, but offers some major categories affected or that could be affected. Your office may want to refer to LMA's *Municipal Handbook* (chapter 6) on its web site for a more comprehensive listing and explanation.

Potential types of losses with practical examples are as follows:

- **Sales and Use taxes** (sales of fishing tackle/rental of chartered fishing trips decrease dramatically)
- **Franchise Taxes** (restaurants close or choose not to come to affected areas)
- **Occupational License Taxes** (construction slows down and licensing of builders/carpenters/plumbers decreases)
- **Hotel/Motel Occupancy Tax** (visitors decrease because of the perceptions of contaminated areas)
- **Property Taxes** (many property owners move from affected areas)
- **Public Utility Service Fees** (unemployment affects customers' ability to pay)
- **Traffic Fees/Fines** (visitors/residents decrease and number of traffic violations decrease)

### Potential Methodology to Recoup Loss of Revenues

#### Steps to Consider

1. Obtain your financial statement information for the past 3 years focusing on revenues.
2. Refer to BP's criteria listed on its Web site for identifying and documenting revenue losses.

**IMPORTANT** - Just because BP's criteria indicate that you do not have a claim does not mean that you should not file the claim if you have a loss.

3. Determine if your municipality will file its claims monthly, quarterly, semiannually, or annually. Organize data and conduct analysis accordingly.
4. Use information collected in Step 1, to identify specific revenue streams before the oil spill.
5. Calculate average annual change in revenues over a 3-year period.
6. Estimate annual future collections for the next 3 years based on the historical average calculated in step 5. What would have happened without the oil spill?
7. Gather actual revenues collected after the oil spill from CTV records. Adjust as needed for spikes (increases) because of clean-up activities.
8. Subtract the comparable period average revenues from the actual revenues collected.
9. The difference is the amount of claim to be filed.
10. Continue revenue loss calculations until CTV is no longer affected by the oil spill.

#### Factors to Consider

1. Assumptions will have to be made when projecting revenue losses. You should document all assumptions used to calculate your revenue losses.
2. Make sure you document all of your analyses and related evidence to support the claims you make to BP. Detailed guidance is included in BP's *Protocol for Submission of Claims by Government Entities* located on BP's Web site.

3. Filing the claim is necessary to receive any money - **under OPA 90 you must file the claim with BP prior to seeking other remedies.** Also, you will be contacted by BP representatives when you do file the claim.
4. BP has informed us that you do not have to project using data for 3 years. You can use data for one year. **IMPORTANT** - Your claim calculation should reflect your largest potential loss.
5. Be aware that temporary revenue **INCREASES** may occur because of oil spill recovery activities (e.g., clean-up workers renting hotel rooms; equipment). The “bump” in revenues should be calculated and removed.
6. Remember, just because you do not see current impacts, you should **consider the potential long-term effects.**

#### Cost Increases to Local Government

Through our contact with municipalities, we found that local government has been incurring increased costs associated with the oil spill. Expenditures have **increased because of oil cleanup and removal and increases in governmental services provided.** The following are specific areas and related examples of where expenditures have increased or could increase as a result of the oil spill:

- **Cleanup and Removal** (labor costs increase)
- **Public Health** (mental/physical health problems increase and government pays for medical treatment and transportation)
- **Police/Security** (unemployment and behavioral health problems cause spike in crime and police force is increased)
- **Payroll** (city employees work longer and more are hired)
- **Unemployment Tax** (higher tax rate caused by area layoffs)
- **Bond Issuance and Debt Service** (revenue streams decrease causing higher bond rates and the need for more debt)

#### Potential Methodology to Recoup Increased Costs

You should identify what services your municipality has provided in response to the oil spill and how these additional responsibilities have affected costs. Detailed documentation is necessary when you are preparing to file your claim. We stress again that **under OPA 90 you must file a claim with BP prior to seeking other remedies to receive any compensation - file the claim.**

The following are questions that you should address when considering the impacts that the oil spill has had on your municipality’s expenditures; however, there may be many other questions you need to consider as you move forward.

#### Cost Impacts to Consider

1. **Clean up:** What impact has there been on labor and equipment to clean marshes and beaches?
2. **Public Health:** Has my government had to increase services in response to increased physical health problems and behavior/mental health problems as a result of the spill? Medical transportation? Counseling services?
3. **Police and Security:** Has my municipality experienced a spike in crime due to the oil spill and its aftermath (e.g., drug use increase tied to unemployment)? Have we hired more officers? Do more officers work a single shift now?
4. **Payroll:** Do I have to pay for overtime that is a result of the oil spill? Has my municipality had to hire additional temporary staff as a result of the oil spill?
5. **Unemployment Tax:** Have municipal layoffs increased and how will the layoffs affect our unemployment tax rate/expense?
6. **Bond Issuance:** Since revenue streams have been affected, will my costs associated with issuing bonds increase?

### **Factors to consider**

1. Assumptions will have to be made when projecting expenditure increases. You should document all assumptions used to calculate these cost increases.
2. Make sure you document all of your analyses and related evidence to support the claims you make to BP. Detailed guidance is included in BP's *Protocol for Submission of Claims by Government Entities* located on BP's Web site.
3. Remember, just because you do not see current impacts, you should **consider the possible long-term effects.**

#### **Available Resources**

Local officials should use the sites below to assist with identifying impact, preparing claims, and providing valuable information to your residents. Please keep in mind that links to Web sites may change over time.

### **BP Sites**

**BP Government Claims Web site** - Provides information on the types of claims and damages that may be filed under the Oil Pollution Act (claims checklists and forms).

**Link:** [www.bp.com/governmentclaims](http://www.bp.com/governmentclaims)

**BP Web site for Individuals and Businesses** -

For businesses and individuals filing claims, provides claims processes, forms, and answers to Frequently Asked Questions (FAQ). Also, provides claims statistics by state as compiled by Gulf Coast Claims Facility.

**Link:** [www.gulfcoastclaimsfacility.com](http://www.gulfcoastclaimsfacility.com)

### **State of Louisiana Sites**

**Louisiana Governor's Office of Homeland Security and Emergency Preparedness** - State of Louisiana's primary Web site for oil spill information. **Link:** [www.emergency.la.gov](http://www.emergency.la.gov)

**Louisiana Legislative Auditor's Disaster Assistance Web site** - Provides overall guidance for the oil spill disaster and subsequent fishing bans and drilling moratorium.

**Link:** [www.la.gov/disasterassistance](http://www.la.gov/disasterassistance)

**Louisiana Municipal Association Municipal Handbook, Chapter 6** - Contains information identifying revenues of municipalities.

**Link:** [www.lma.org](http://www.lma.org)

### **Federal Sites**

**Official Federal Response Portal** - Contains fact sheets for claims by state and local governments. Has links to information on Natural Resource Damage Assessments--the process provided by the OPA in which "natural resource trustees" may assess damages caused by an oil spill and collect for those damages.

**Link:** [www.restorethegulf.gov](http://www.restorethegulf.gov)

**National Oil Spill Commission, Final Report to the President** - Assesses the causes of the Deepwater Horizon disaster and its aftermath, including specific economic and environmental impacts on Louisiana and its residents.

**Link:** [www.oilspillcommission.gov/final-report](http://www.oilspillcommission.gov/final-report)

**National Pollution Funds Center Web site** - Contains information presented by the U.S. Coast Guard regarding oil spill funding and claims processes.

**Link:** [www.uscg.mil/npfc](http://www.uscg.mil/npfc)

#### **Need more information?**

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