

Deepwater Horizon Event Oil Spill Claims Information Update for School Districts



Louisiana Legislative Auditor

Introduction: This document is intended for those school districts affected by the April 20, 2010, Deepwater Horizon explosion and resulting Oil Spill in the Gulf of Mexico. The information will assist school district 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.gov/disasterassistance.

Remember the Basics

Below are general strategies that your school district should address to be successful in your recovery efforts. These strategies may be basic in nature, but they are critical to your recovery success.

Build Your Team - Consult your school district attorney, bond attorney, CPA, financial advisors, and key staff to assist you in determining what action your school district should take regarding claims and other issues related to the Oil Spill.

Understand the Claims Process - School district officials should acquaint themselves with the resources available on page 4 of this brochure and network with municipal and parish governments and other school districts for assistance and brainstorming ideas. Officials should also consider seeking assistance from and brainstorming with entities such as related professional organizations.

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. Do not forget to brainstorm with others who may offer assistance through their practical experiences with such situations (e.g., other parish and municipal government officials, other school districts/boards, and related professional associations).

File a Well-Documented Claim - The burden placed on school districts from the Oil Spill and its aftermath can be remedied by filing a claim with thorough supporting documentation.

You Can Appeal - If a claim is denied, the district can ask BP 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 (NPFC) which administers the Oil Spill Liability Trust Fund (see page 4 of this brochure for NPFC contact information). If the district does not receive full compensation for its claim, the school district should consult its local legal counsel and the Attorney General regarding its legal remedies. If all appeals fail, you may choose on the advice of counsel to file suit in a court of competent jurisdiction.

Watch for These Pitfalls

The following problems could cause claims to be denied in whole or in part:

Mathematical or technical errors in calculations - Errors in calculating claims could cause a reduction in the payment of the claim.

Insufficient documentation - Not having thorough, supportive documentation will cause delays in the process.

Policy differences - School districts may be trying to use pre-existing policies related to emergencies and disasters (e.g., FEMA regulations). BP may not approve claims filed if you are filing claims based on such regulations/policies. Consult your legal counsel for guidance and BP for further clarification.

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Learn from Success Stories

The agencies that had success with their claims had two things in common:

Claims were well documented - A claim with logical and concise documentation will expedite the recovery process. Good documentation includes summary spreadsheets with supporting receipts/verification, vehicle/equipment use logs, and other evidence prepared in a logical manner.

Constant communication with BP - The BP claims center is available for claims information. The phone number is (877) 710-4064.

Loss of School District Revenues

Three key industries were adversely affected by the Oil Spill and resulting fishing ban and oil drilling moratorium. Negative effects on the **oil industry, the seafood industry, and tourism** have resulted in loss of revenue for parish and municipal governments. The school districts may be impacted as well.

Although these are not the only industries that may have been affected, adverse effects to them have driven revenue losses in the categories presented below. A number of taxes, fees, and fines have been and could be affected by the spill and ensuing fishing ban and drilling moratorium.

Below, we present potential types or categories of revenue losses that the school districts need to consider. This is not a comprehensive list, but offers some guidance regarding major categories affected or that could be affected.

Potential types of losses that may affect the school districts with practical examples are as follows:

- **Sales and Use Taxes** (sales of fishing tackle/rental of chartered fishing trips, seafood retail sales, or taxable restaurant income decrease dramatically)
- **Property Taxes** (many property owners move from affected areas, lowering collections)
- **Minimum Foundation Program** (decreases in student population caused by families moving from district to find employment; loss of sales and property taxes may place a burden

on the school district for funding its local portion of the MFP)

Potential Methodology to Recoup Loss of Revenues

Steps to Consider

1. Obtain financial statement information for the past three 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 a claim if you have a loss.
3. Determine if your school district will file claims monthly, quarterly, semiannually, or annually. You should organize data and conduct analysis accordingly.
4. Using information collected in Step 1, identify specific revenue streams before the Oil Spill.
5. Calculate average annual change in revenues over the three-year period.
6. Based on historical average calculated in Step 5, estimate annual future collections for the next three years.
7. From school district accounting records, gather actual revenues collected after the Oil Spill.
8. Subtract the estimated revenues from the actual revenues collected.
9. The difference is the amount of claim to be filed.
10. Continue until Oil Spill no longer affects the school district.

Factors to Consider

1. Assumptions will have to be made when projecting revenue losses. You should document all assumptions used to estimate revenue losses.
2. Make sure you clearly document all of your analyses and related evidence to support the claims you make to BP. Detailed information 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 - **you must file the claim.** BP representatives will contact you when you do file the claim.
4. BP has informed us that you do not have to project using data for three years; you can use data for one year. However, you must consider what is in the best interest of your school district.
5. Be aware that temporary revenue increases may occur because of the Oil Spill recovery activities (e.g., clean-up workers renting hotel rooms). The “bump” in revenues should be calculated and removed.
6. Remember, just because you do not see current impacts, you should **consider possible long-term effects.**
7. If your district is trying to use other emergency/disaster response policies to claim reimbursement for the BP Oil Spill, BP may not approve such claims. Seek guidance from your legal team and further clarification from BP.

Cost Increases to School Districts and Recouping Costs

Expenditures have increased because of the oil clean-up, removal, and increases in governmental services provided. These costs may have occurred during the initial stages of the Oil Spill or may be occurring now. The following are specific areas and related examples of where expenditures have increased or could increase as a result of the Oil Spill with questions the districts should consider:



Courtesy: United States Coast Guard

Cost Impacts to Consider

1. **Additional Services to Students (e.g., counseling):** Will students require additional services? Can services be handled by existing staff? Will the district have to hire/contract with additional staff?

2. **Borrowing Money:** Did the district have to borrow money to address immediate needs. What was the cost to the district to do so?
3. **Additional Expenses Due to Student Displacement:** Did/Will displaced students cause unanticipated expenditure increases in schools/districts (e.g., text books)? If this occurs after MFP counts and adjustments, how will the district handle such costs?

You need to identify what services your district 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. See page 4 of this brochure for helpful resources. **We stress again that you must file a claim to receive any compensation.** If the district does not receive full compensation for its claim, district officials should consult their legal counsel and the Attorney General regarding their legal remedies.

Factors to Consider

1. Assumptions will have to be made when projecting expenditure increases. You should document all assumptions used to estimate these increases.
2. Make sure you clearly document all of your analysis and related evidence to support the claims you make to BP. Detailed information is included in BP’s *Protocol for Submission of Claims by Government Entities* located on BP’s Web site. You may want to have your legal counsel critically review submission documentation and what you are submitting.
3. Remember, just because you do not see current impacts, you should **consider possible long-term effects.**
4. If your district is trying to use other emergency/disaster response policies to claim reimbursement for the BP Oil Spill, BP may not approve such claims. Seek guidance from your legal team and further clarification from BP.

Available Resources

School district officials should use these sites to assist with identifying impact, preparing claims, and providing valuable information to their students, parents, and teachers/administrators. Keep in mind, 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

BP Web site for Individuals and Businesses - Provides claims processes, forms, and answers to Frequently Asked Questions (FAQ). Also provides claims statistics by state as compiled by Gulf Coast Claims Facility (GCCF).

Link: 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

LLA's Disaster Assistance Web site - Provides overall guidance for the Oil Spill disaster and subsequent fishing bans and drilling moratorium.

Link: www.la.la.gov/disasterassistance

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 Oil Pollution Act (OPA) in which "natural resource trustees" may assess damages caused by the Oil Spill and collect for those damages.

Link: 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 impact on Louisiana and its residents.

Link: 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

Need more information?

Contact
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