



IRP Presentation

Robert Laughton

Director-Environmental Health and Safety

Los Angeles Unified School District



Outline



- ▶ Introduction
- ▶ Indirect costs
- ▶ Fee estimation
- ▶ Conflict of Interest
- ▶ Billing Issues
- ▶ Examples
 - ▶ 28th St
 - ▶ Azalea Academies
 - ▶ Exide
- ▶ Closing



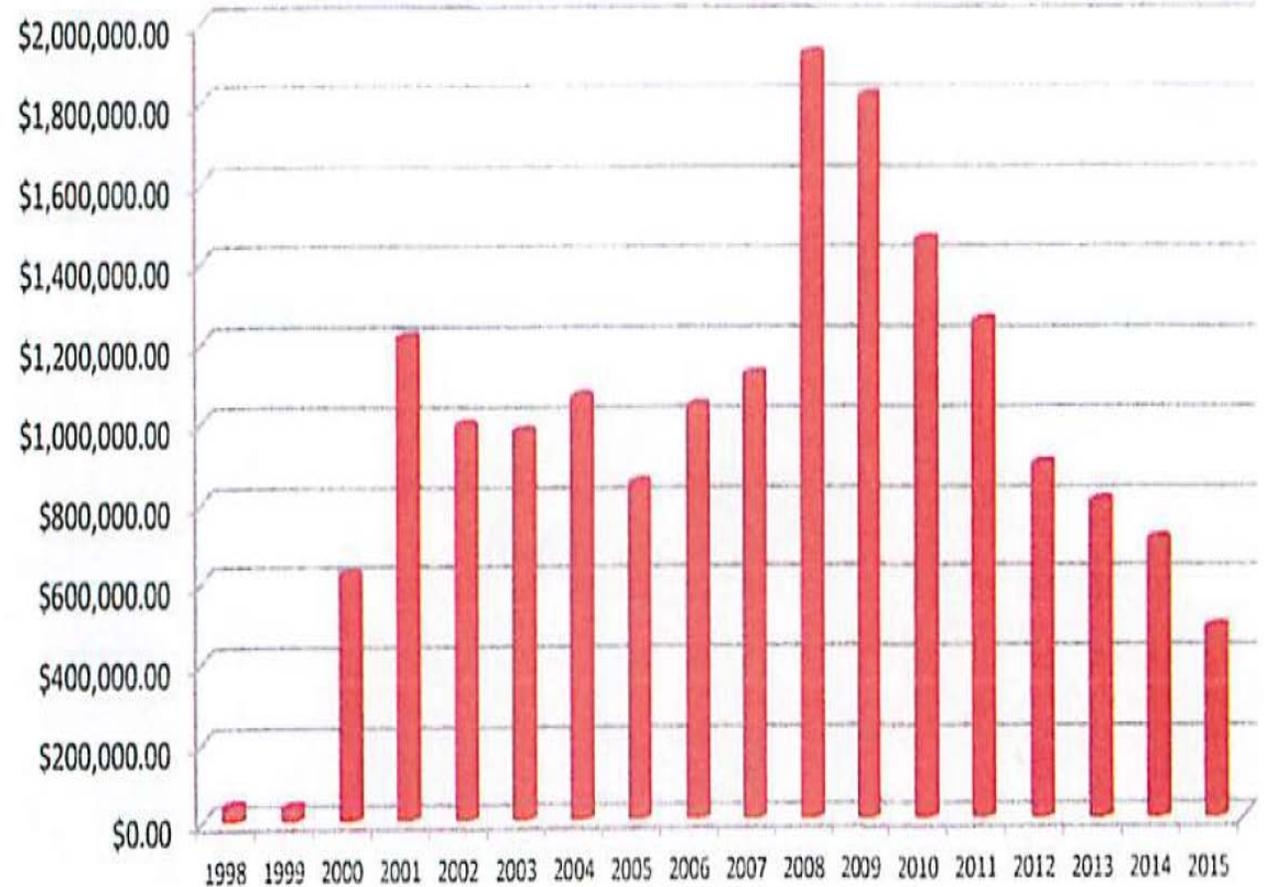
Introduction



- ▶ LAUSD is the second largest school district in the nation.
- ▶ We are currently finalizing the largest school construction program in the nations history, having built and opened 132 brand new schools.
- ▶ During the course of the new construction program, we cleaned up over 600 acres of brownfields.
- ▶ We currently operate 79 million square feet of building space on 6657 acres of land.
- ▶ We are in the beginning stages of a \$9 billion comprehensive modernization program of existing campuses.

- Fees to DTSC during the New School Construction Program exceeded \$17 million.

DTSC EXPENDITURES BY FISCAL YEAR



Historic Expenditures



Indirect Costs

- ▶ DTSC billing practices include “indirect costs”. DTSC utilizes Health and Safety Code 25269.4 as justification, and bills LAUSD exactly 154 % indirect rate for all invoices, or 61% of every invoice goes to indirect.
- ▶ Based on the expenditures during the New School Construction Program, (current indirect rates), \$10,370,000 went to overhead. Roughly 61%
- ▶ Indirect costs are for support functions, typically as described in the California School Accounting Manual:
 - ▶ *Indirect costs are agency-wide, general management costs (i.e., activities for the direction and control of the agency as a whole). General management costs consist of administrative activities necessary for the general operation of the agency, such as accounting, budgeting, payroll preparation, personnel services, purchasing, and centralized data processing*
- ▶ *The USDE and CDE updates the rate a school district can use annually in the award and management of federal (and state) contracts, grants, and other assistance arrangements governed by Office of Management and Budget. Although this isn't directly related, it does give an example of appropriate indirect fees, and the structure that is in place so that inappropriate charges are not levied. Specific guidance is provided annually to each LEA for the appropriate indirect rate for the year. The amount range from 0% to 23.61%, with LAUSD being at 3.47% for fiscal year 16/17*



Estimating Fees



- ▶ In theory, Health and Safety Code 25269.4 sounds like good practice. Engage DTSC and negotiate up front the necessary fees. However, this is often inaccurate or not done in a timely fashion.
- ▶ Further, this is not tied to an accurate level of effort. How much inspection is involved appears to be up to each DTSC employee, and does not appear to be tied to any specific milestones.
- ▶ DTSC field personnel should be limited to inspection/confirmation, not project management.
- ▶ A new model should be implemented, that ties inspection to codified milestones, and an upfront percentage based fee.
- ▶ The fee model currently embedded in Title 24, administered by the State Architect would greatly streamline this process, and create clarity for the property developers in the state, whether they are other governmental agencies, or private developers.



Estimating Fees

- ▶ Embedded in Title 24 is the fee structure, and administrative guidelines an agency/developer pays in order to submit and get DSA approval of a project.
 - ▶ Structural Safety Review Fees-0.6-0.7%
 - ▶ Fire & Life Safety Review Fees-0.01-0.3%
 - ▶ Access Compliance Review Fees-0.04-0.5%
- ▶ For full project review, this would be somewhere in the range of .74%-1.5%
- ▶ Inspection is conducted by DSA certified inspector, and currently at LAUSD runs between 3%-5% of construction cost.
- ▶ Implementing this type of system for DTSC would eliminate billing almost entirely, provide clarity and consistency to the development community, and require DTSC to live within their budget.



Conflict of Interest

- ▶ In order to engage DTSC for a proposed clean up activity an agency/developer is required to enter into a VCA (Voluntary Clean-up Agreement).
- ▶ This has set up a conflict if the “paying party’s” contamination extends beyond the property line. The DTSC appears to grant consideration to the entity that is party to the VCA.
- ▶ This is also compounded if the properties in question are governed by two different DTSC offices, e.g., Brownfields and Schools that have different clearance levels and differing cultures.



Billing Issues

- ▶ No clear definition of employees that are direct and those that are indirect. It appears to change during the course of projects.
- ▶ LAUSD has had multiple instances of being direct billed for employees that are office based, and should be indirect.
- ▶ No clear disposition of indirect fee structure.
- ▶ Unclear as to what role DTSC field personnel should hold (Project Manager/Regulator/Inspector).

28th Street Elementary School

- Beginning in 2004, a series of investigations were conducted at 28th Street Elementary School to evaluate impacts from an off-site source, Palace Plating, which was a metal finishing plant that operated from 1962 to 2011.
- Tetrachloroethylene (PCE), originating from Palace Plating, was identified in 7 bungalows (12 classrooms) at levels exceeding DTSC action levels.
- The District implemented mitigation measures at the bungalows as a result of the PCE.
- The District conducts quarterly system checks of the HVAC, CSV, and air purification units to confirm that mitigation measures are functioning properly. In addition, indoor air sampling for PCE is conducted on an annual basis.
- In 2008, DTSC issued an Imminent and Substantial Endangerment Order to investigate and remediate releases at Palace Plating. In 2011, the Los Angeles City Attorney's Environmental Justice and Protection Unit approved a settlement with Palace Plating. Pursuant to the settlement agreement and among other requirements, Palace Plating was to remediate all contamination.
- In the nine years since the Imminent and Substantial Endangerment Order was issued to Palace Plating, no remediation has occurred.
- In the most recent DTSC reviews of Palace Plating have indicated that the school is a source despite the District expending significant funds to investigate and disprove this theory.
- 12 years after discovery of the issue, and 6 years after an approved settlement, clean up has still not occurred, and the district continues to expend the settlement dollars.

Azalea Academies

- ▶ Azalea Academies was part of the new school construction program back in 2005. As such, environmental investigations were completed under the oversight of the DTSC. A removal action (RA) for approximately 300 cubic yards of soil containing lead, pesticides, petroleum hydrocarbons was conducted in early 2008 and approved by the DTSC in mid-2008.
- ▶ Low levels of VOC's were identified outside of the RA area and investigated separately to further identify a source. From 2005-2008 the District conducted extensive environmental investigations at the request of DTSC to provide evidence that an off-site release was the source of the VOC's. Based on the investigations, the source was determined as Green's Cleaners.
- ▶ In 2009, DTSC stated that they would pursue the documented (posted on DTSC Envirostor) off-site source. However, DTSC failed to take any action. Finally in 2015, the District was forced to file a lawsuit against the off-site responsible party (RP).
- ▶ Green's Cleaner's settled with the District in late 2016 due to the considerable amount of evidence indicating that a substantial undocumented release of PCE had occurred from the facility.
- ▶ Despite this settlement and acknowledgment of responsibility, DTSC continues to refuse to have the RP take over the requirements of the operations and maintenance plan and remove the LUC that was placed on the District property.



Exide

- ▶ The District has 22 campuses within the expanded Exide zone that required sampling.
- ▶ While working through the access agreement, the District was promised that if any impacted soil was found, DTSC would provide the funding necessary for the clean up.
- ▶ Three schools were found to have soil that exceeded the DTSC's screening levels.
- ▶ DTSC said due to the level found, the schools would not be prioritized for clean up, but the areas of concern should have restricted access.
- ▶ The District was told that it would be several years before our sites would be prioritized, although they are the primary play area for thousands of children in these communities.
- ▶ The District moved ahead and performed the cleanup of all three sites on our own accord and funding (general fund) for an approximate cost of \$200,000.00.
- ▶ If a similar level of indirect is charged for managing Exide that is used for LAUSD work, approximately \$105 million of the \$177 million will go to DTSC's indirect. And that doesn't include direct charges.



Closing



- ▶ DTSC has an important mission, but it needs to be noted that public and private entities actually fund and perform the cleanup work in this state, on a mostly voluntary basis.
- ▶ DTSC appears to spend an inordinate amount of time on accounts receivable.
- ▶ It appears that DTSC is poorly directly funded, and can only function if they are billing customers.
- ▶ The more efficiently DTSC can perform oversight work, the more capital that is left over to do more cleanup.
- ▶ DTSC billing practice needs to be converted to an easy to understand and calculated application fee.
- ▶ There should be organizational chart level, position by position detail on who is indirect, and who is direct.
- ▶ DTSC's role should be limited to performing design review and inspection of the remediation. Not project management, unless it is their project.