

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 09/14)

| | | | |
|--|-----------------------|--|-------------------|
| Fiscal Year 2015-16 | Business Unit 3960 | Department Department of Toxic Substances Control | Priority No. 2 |
| Budget Request Name 3960-002-BCP-BR-2015-GB | | Program 3625 Hazardous Waste Management 9900100 Administration 9900200 Distributed Administration | Subprogram |

Budget Request Description
 Exide 2014 Enforcement Order

Budget Request Summary

The Department of Toxic Substances Control (DTSC) is requesting five and one-half (5.5) positions and \$734,000 to implement the 2014 Enforcement Order (Order) against Exide Technologies. Among other things, the Order establishes that Exide is liable for all costs incurred by the DTSC in reviewing work plans and overseeing the work required by the Order including all California Environmental Quality Act costs. The work required by the order includes: 1) Cleanup of 215 off-site residential properties in an Environmental Justice community; 2) Investigation and possible cleanup of additional off-site residential properties impacted by Exide operations; 3) Investigation of industrial properties adjacent to the Exide operations; and 4) Development of a Corrective Measure Study and Remedy Selection document.

| | | |
|--|--|------|
| Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Code Section(s) to be Added/Amended/Repealed | |
| Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i> | Department CIO | Date |

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

| | | | |
|---|------------------|--|----------------|
| Prepared By <i>Roger Ghaus</i> | Date 1/5/2015 | Reviewed By <i>Sarah Benson</i> | Date 1/6/15 |
| Department Director <i>[Signature]</i> | Date 1/6/15 | Agency Secretary <i>[Signature]</i> | Date 1/6/15 |

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

| | | |
|------|--------------------------------------|-----------------------------------|
| PPBA | Original Signed By: Ellen Moratti | Date submitted to the Legislature |
|------|--------------------------------------|-----------------------------------|

Analysis of Problem

A. Budget Request Summary

DTSC is requesting five and one-half (5.5) positions and \$734,000 for a limited-term of three years from the Hazardous Waste Control Account to implement the 2014 Enforcement Order (Order) against Exide Technologies (Exide or Facility). Among other things, the Order establishes that Exide is liable for all costs incurred by DTSC in reviewing work plans and overseeing the work required by the Order including all California Environmental Quality Act (CEQA) costs. The work required by the Order includes: 1) Cleanup of 215 off-site residential properties in an environmental justice community; 2) Investigation and possible cleanup of additional off-site residential properties impacted by Exide operations; 3) Investigation of industrial properties adjacent to the Exide operations; and 4) Development of a Corrective Measure Study and Remedy Selection document. Because lead is the contaminant, this work is essential to protect children and pregnant women, who are most vulnerable to its effects. DTSC's costs will be recovered from Exide Technologies.

B. Background/History

Exide Technologies is located in the City of Vernon, about five miles southeast of downtown Los Angeles. The Facility occupies 15 acres in a heavy industrial region with surrounding residential areas about ¼-mile to the North and South. Facility operations include recycling lead-bearing scrap materials obtained from spent lead-acid batteries to produce marketable lead ingots.

The recycling process of the batteries requires authorization from DTSC, which was granted by the former California Department of Health Services (currently the DTSC) in 1981. The authorization (technically called Interim Status) is a means to allow facilities to operate pending approval or denial of a full permit to ensure their operations are protective of public health and the environment. In addition to the requirement for its hazardous waste operations, the facility is required to control its air emission of Toxic Air Contaminants. The South Coast Air Quality Management (SCAQMD) has various programs that apply to Exide to ensure air emissions are controlled.

In response to contamination caused by the Facility, DTSC issued a Corrective Action Consent Order, Docket No. P 3-01-02-010 in February 2002 ("2002 Corrective Action Consent Order") that required Exide to conduct corrective action (i.e., investigation and cleanup). Exide remains subject to the requirements of the 2002 Corrective Action Consent Order.

On March 1, 2013, SCAQMD announced that the Exide operations had a significant potential health impact on the surrounding communities. Subsequently in April 2013, DTSC issued an order to Exide that required Exide to immediately suspend its operations pending an administrative hearing. Exide responded by filing a complaint in superior court seeking to enjoin DTSC's suspension order. The superior court granted a temporary restraining order against DTSC's suspension order in June 2013, and subsequently granted a preliminary injunction against the suspension order in July 2013.

In early 2014, sampling results from the two nearest residential neighborhoods (Northern Assessment Area and Southern Assessment Area) showed elevated levels of lead in the top six inches of soils in all 39 homes sampled. As a consequence of the elevated lead levels found, DTSC required Exide to develop a work plan in accordance with the 2002 Corrective Action Consent Order to remediate soil contamination at homes in those areas as well as offer additional sampling to the 215 off-site residential properties located in the two residential areas. DTSC required Exide to provide upfront funding to ensure that cleanup occurs and the community is protected during remediation of off-site residential properties in these generally low income neighborhoods. To do this, Exide received approval on November 20, 2014 from the Bankruptcy Court to comply with the Order to set aside funding to clean-up off-site contamination in the areas surrounding Exide operations.

C. State Level Considerations

This Proposal is consistent with DTSC's Strategic Plan 2014-2018, Goal 1: Ensure DTSC's cleanup efforts protect communities, hold responsible parties accountable and recover DTSC's costs.

Analysis of Problem

DTSC is authorized by Health and Safety Code § 25187 and section 23 of the 2002 Corrective Action Consent Order to recover costs from responsible parties (e.g., the parties responsible for the contamination). In addition, Public Resources Code § 21089 authorizes Lead Agency (e.g., DTSC) to recover reasonable cost for California Environmental Quality Act activities.

The Legislature has shown specific interest in DTSC's actions, as Senate President pro Tempore Kevin de León identified Exide and their impacts on communities he represents in a November 12, 2014 statement. In a September 30, 2014 veto message for Senate Bill 812, Governor Brown stated he would work personally with Senator Pro Tem regarding activities associated with DTSC Permitting program.

D. Justification

Significant effort is required to clean up the contaminated soil in the residential neighborhoods in a timely fashion. Many homes have children who can be exposed to and harmed by the lead levels found in the yards. High lead levels can cause learning disabilities in young children. DTSC, elected officials, the community and other agencies see an urgent need to clean up the homes as quickly as possible.

Each of the four areas identified in the Order will be substantial and cannot be managed with existing resources. Several staff have been redirected to implement the 2013 Stipulation and Order to conduct tasks including review of the work plans for sampling the two residential neighborhoods, oversight of the sampling, emergency response to the contamination adjacent to Exide, review and oversight of the remediation of two homes as well as outreach to the community for all these activities. The Order activities must be adequately staffed and managed to ensure they are not delayed and that significant community involvement occurs. Redirection of permitting positions would impact DTSC ability to complete the Permitting Enhancement Work Plan on time and would further increase the backlog of permit renewals and modifications.

DTSC is requesting four (4.0) positions to provide oversight and management of the investigations, planning, execution and completion of corrective action activities as outlined in the Order. A Senior Engineering Geologist will lead the effort by directing the technical teams and informing management of potential problems and the status of the activities. Three (3.0) Hazardous Substances Engineers will oversee the implementation of the proposed remediation activities.

DTSC is also requesting a half-time (0.5) Associate Environmental Planner that will provide CEQA direction, oversight and coordination, and review and revise the environmental documents associated with the corrective action activities outlined in the Order.

To ensure adequate involvement and outreach to stakeholders, DTSC is also requesting one (1.0) Public Participation Specialist (PPS) that will provide coordination and facilitation at community meetings; attend other environmental agencies community events; participate in briefing elected officials and key stakeholders; and produce monthly community updates.

E. Outcomes and Accountability

DTSC will oversee the accomplishment of the following:

- Timely cleanup of health threatening contaminants at off-site residential properties in the two neighborhoods;
- Comprehensive contamination investigations including a detailed evaluation of effective and timely cleanup options at the Exide Facility; and
- Establish and maintain strong lines of communication with key stakeholders.

The number of off-site residential properties that will be cleaned up will be the first major measure to monitor the progress of implementing the Order. There are 215 homes within the two neighborhood areas. All property owners are being contacted by DTSC to ensure they are aware of the possible contamination and the availability of free soil sampling and that, depending on the laboratory results, cleanup of contaminated soil on their properties will be provided. Progress will also be monitored by measuring the actions (e.g., contacted, sampled, cleaned up) associated with each property. Additionally, the time and

Analysis of Problem

cost of DTSC implementation of the Order will be reported on a quarterly basis and posted on DTSC's website.

F. Analysis of All Feasible Alternatives

Alternative 1: Adopt this proposal for the requested resources to implement the Order.

Pros:

- Increases protection of public health by timely remediation of lead-contaminated residential properties.
- Increases protection of public health and the environment by addressing on-site contamination at the Exide Facility and reduces the spread of contamination to nearby communities.
- Demonstrates to the various stakeholders that DTSC is being responsive to the community and their representatives.
- DTSC's costs are cost recoverable.

Cons:

- Increases position authority.

Alternative 2: Redirect existing resources to implement the Order.

Pros:

- No additional position authority.
- Existing staff are already familiar with the tasks and responsibilities associated with the cleanup activities.

Cons:

- Would likely increase the permitting backlog as ongoing workload would need to be deferred to redirect resources to handle the Exide workload.

Alternative 3: Do nothing

Pros:

- No additional costs or positions.

Cons:

- Neglects the need to remediate contamination of residential properties in a community disproportionately impacted by health and environmental factors in an effective and timely manner.
- Continued delay of contamination investigations and remediation of the Exide Facility.
- Increased outcry of DTSC's neglect by surrounding communities and their elected representatives.

G. Implementation Plan

The requested resources will enable DTSC to implement the work plan in accordance with the timeline shown below.

Preliminary Activities

April 2015 to July 2015

Analysis of Problem

- Prepare for recruitment and interview process in anticipation of Budget approval
- Oversee the cleanup of off-site residential properties in the Assessment Areas in accordance with Order item 12

Initial Residential Off-site Corrective Action

July 2015 to December 2015

- Oversee the cleanup of off-site residential properties in the Assessment Areas in accordance with Order item 12
- Conduct outreach to the communities and notify them of off-site investigation and potential cleanup activities
- Additional Background study review

Augmented Residential Off-site Corrective Action

July 2016 to June 2017

- Initiate Interim Measure for additional residential areas (Work plan request, DTSC review, Public Comment period, CEQA evaluation) in accordance with Order item 13
- Oversee the cleanup of identified off-site residential properties in the augmented residential areas

July 2017 to June 2018

- Oversee the cleanup of identified residential properties in the augmented residential areas

Industrial Off-site Corrective Action

July 2015 to December 2015

- Initiate Interim Measure for specific industrial properties (Work plan request, DTSC review, Public Comment period, CEQA evaluation)

January 2016 to June 2018

- Oversee the cleanup of industrial sites

On-site Corrective Action

July 2015 to September 2015

- Completion of initial Resource Conservation and Recovery Act (RCRA) Facility Investigation (RFI)

October 2015 to March 2016

- Data Gap identification and additional field data collection

April 2016 to September 2016

- Finalized RFI

October 2016 to June 2017

- Corrective Measure Study Development
- Public Participation Activities

July 2017 to June 2018

- Corrective Measure Implementation

CEQA Activities for Permit Decision

July 2015 to March 2016

- Response to Comments on Draft Environmental Impact Report

Analysis of Problem

- Finalize Environmental Impact Report

July 2016 to December 2016

- Office of Legal Affairs defense of Environmental Impact Report

H. Supplemental Information

This proposal includes standard operating expense which includes general expense, travel, training, and communications. This proposal also includes \$10,000 for field supplies for staff that will be on site and require protective equipment.

I. Recommendation

DTSC recommends Alternative 1: Authorizing 5.5 positions and \$734,000 limited-term for three years to implement the Order for the Exide Facility.

BCP Fiscal Detail Sheet

BCP Title: Exide 2014 Enforcement Order

Budget Request Summary

| | FY15 | |
|---|------------|--------------|
| | CY | BY |
| Positions - Temporary | 0.0 | 5.5 |
| Total Positions | 0.0 | 5.5 |
| Salaries and Wages | | |
| Earnings - Permanent | 0 | 440 |
| Total Salaries and Wages | \$0 | \$440 |
| Total Staff Benefits | 0 | 200 |
| Total Personal Services | \$0 | \$640 |
| Operating Expenses and Equipment | | |
| 5301 - General Expense | 0 | 39 |
| 5306 - Postage | 0 | 6 |
| 5320 - Travel: In-State | 0 | 11 |
| 5322 - Training | 0 | 11 |
| 5362 - Capital Asset Purchases - Equipment | 0 | 17 |
| 539X - Other | 0 | 10 |
| Total Operating Expenses and Equipment | \$0 | \$94 |
| Total Budget Request | \$0 | \$734 |

Fund Summary

| | | |
|--|------------|--------------|
| Fund Source - State Operations | | |
| 0014 - Hazardous Waste Control Account | 0 | 734 |
| Total State Operations Expenditures | \$0 | \$734 |
| Total All Funds | \$0 | \$734 |

Program Summary

| | | |
|--|------------|--------------|
| Program Funding | | |
| 3625 - Hazardous Waste Management | 0 | 734 |
| 9900100 - Administration | 0 | 6 |
| 9900200 - Administration - Distributed | 0 | -6 |
| Total All Programs | \$0 | \$734 |

Other Resources

| | | |
|--|------------|--------------|
| Revenue | | |
| 0014 - Hazardous Waste Control Account | 0 | 734 |
| Total Revenue - All Funds | \$0 | \$734 |

Personal Services Details

| Positions | Salary Information | | | CY | BY |
|--|--------------------|--------------|--------------|--------------|------------|
| | Min | Mid | Max | | |
| 3726 - Hazardous Substances Engr (Eff. 07-01- | | | | 0.0 | 3.0 |
| 3751 - Sr Engring Geologist (Eff. 07-01-2015)(LT | | | | 0.0 | 1.0 |
| 4711 - Assoc Envirnral Plnr (Eff. 07-01-2015)(LT | | | | 0.0 | 0.5 |
| 5373 - Public Participation Spec (Eff. 07-01- | | | | 0.0 | 1.0 |
| Total Positions | | | | 0.0 | 5.5 |
| Salaries and Wages | CY | BY | BY+1 | BY+2* | |
| 3726 - Hazardous Substances Engr (Eff. 07-01- | 0 | 237 | 237 | - | |
| 3751 - Sr Engring Geologist (Eff. 07-01-2015)(LT | 0 | 110 | 110 | - | |
| 4711 - Assoc Envirnral Plnr (Eff. 07-01-2015)(LT | 0 | 32 | 0 | - | |
| 5373 - Public Participation Spec (Eff. 07-01- | 0 | 61 | 61 | - | |
| Total Salaries and Wages | \$0 | \$440 | \$440 | \$408 | |
| Staff Benefits | | | | | |
| 5150350 - Health and Welfare Insurance | 0 | 60 | 60 | 56 | |
| 5150450 - Medicare Taxation | 0 | 6 | 6 | 6 | |
| 5150500 - OASDI | 0 | 27 | 27 | 25 | |
| 5150630 - Retirement - Public Employees - | 0 | 107 | 107 | 86 | |
| Total Staff Benefits | \$0 | \$200 | \$200 | \$173 | |
| Total Personal Services | \$0 | \$640 | \$640 | \$581 | |

*Data by Classification not available at this time.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
 Workload Analysis Chart
 Budget Request Name: 3960-002-BCP-BR-2015-GB
 Budget Request Description: 2014 Esdte Enforcement Order
 PRIORITY: 2

| ACTIVITY/TASK | Basis/Assumption for Workload Standard | PROJECTED 2016-17 | | | | DIFFERENCE ADDITIONAL HOURS NEEDED |
|---|--|-------------------------|-------------------|----------------------------------|--------------------------------------|------------------------------------|
| | | HOURS TO COMPLETE TASK | OF TASKS PER YEAR | NUMBER OF HOURS NEEDED PER YEAR | NUMBER OF HOURS IN BASE FOR ACTIVITY | |
| Initial Residential Off-site Corrective Action Oversight of Priority 3 Identified Property Cleanup Community Outreach | Experience with previous home remediation | 20 470 | 58 1 | 1,160.00 470.00 | - - | 1,160.00 470.00 |
| Augmented Residential Off-site Corrective Action Interim Measure Work Plan Review Interim Measure Work Plan Public Review | Previous experience from 2014 activities | 1600 800 | 1 1 | 1,600.00 800.00 | - - | 1,600.00 800.00 |
| Industrial Off-site Corrective Action Interim Measure Work Plan Implementation | Previous experience from 2014 activities | 690 | 1 | 690.00 | - | 690.00 |
| On-site Corrective Action Facility Investigation Report Review Corrective Measure Study Technical Review Remedy Selection Public Notice | Previous experience | 1,410 1,410 1,880 | 1 1 1 | 1,410.00 1,410.00 1,880.00 | - - | 1,410.00 1,410.00 1,880.00 |
| CEQA for HWF Permit Decision - Court Actions | | 120 | 1 | 120.00 | - | 120.00 |
| CEQA for Hazardous Waste Facility (HWF) Permit Decision - Court Actions - Consultation with Program and Legal Staff | Previous experience from other HWF CEQA Environmental Impact Report Court Challenges | 320 | 1 | 320.00 | - | 320.00 |
| CEQA for HWF Permit Decision - Court Actions - Preparation | | 40 | 1 | 40.00 | - | 40.00 |
| CEQA for HWF Permit Decision - Court Actions - Attendance | | | 0 | - | - | - |
| TOTAL HOURS REQUIRED PER YEAR | | | | 9,900.00 | - | 9,900.00 |
| NUMBER OF PY (Position) NEEDED (HRS/1800) | | | | 5.50 | - | 5.50 |

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
 Workload Analysis Chart
 Budget Request Name: 3960-002-BCP-BR-2015-GB
 Budget Request Description: 2014 Exits Enforcement Order
 PRIORITY: 2

| ACTIVITY/TASK | Basis/Assumption for Workload Standard | PROJECTED 2017-18 | | | | | DIFFERENCE ADDITIONAL HOURS NEEDED |
|--|--|------------------------------|--------------------------------|---------------------------------------|--|------------------------------|--|
| | | HOURS TO COMPLETE TASK | NUMBER OF TASKS PER YEAR | NUMBER OF HOURS NEEDED PER YEAR | NUMBER OF HOURS IN BASE FOR ACTIVITY | | |
| Augmented Residential Off-site Corrective Action Oversight of Priority 1 Identified Property Cleanup | | 20 | 40 | 800.00 | - | 800.00 | |
| Oversight of Priority 2 Identified Property Cleanup Community Outreach | Experience with previous home remediation | 20 1,150 | 100 1 | 2,000.00 1,150.00 | - | 2,000.00 1,150.00 | |
| Industrial Off-site Corrective Action Interim Measure Implementation Oversight | Previous work from 2014 activities | 480 | 1 | 480.00 | - | 480.00 | |
| On-site Corrective Action Remedy Selection Public Notice Remedy Implementation Community Outreach | Previous experience | 200 3,900 470 | 1 1 1 | 200.00 3,900.00 470.00 | - | 200.00 3,900.00 470.00 | |
| TOTAL HOURS REQUIRED PER YEAR | | | | 9,000.00 | - | 9,000.00 | |
| NUMBER OF PY (Position) NEEDED (HRS/1800) | | | | 5.00 | - | 5.00 | |