

December 22, 2004

Kurt Kratz
Office of the Deputy Under Secretary of Defense
Installations and Environment (3C765)
Washington, DC 20301

Richard Morgan
DSMOA Grants Officer
U.S. Army Corps of Engineers
CENWO-HX-S
12565 West Center Road
Omaha, NE 68144-3869

Dear Kurt and Richard:

The purpose of this letter is to raise the concerns of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) Federal Facilities Research Center to some proposed changes to the Department of Defense and State Memorandum of Agreement (DSMOA) program.

Due to the on-going issues in the DSMOA program regarding the lack of remedial funding, communication issues, coordination issues, and overall program support, ASTSWMO entered into a cooperative agreement with the Office of the Secretary of Defense (OSD) on October 1, 2002 to support the organization and creation of the DSMOA Steering Committee. The purpose of the Steering Committee was to develop a list of issues, determine the scope of the work associated with the list and work together towards resolution of the issues with the goal of improving the DSMOA program for both the Department of Defense (DoD) and the States. For example, to complete this work, the DSMOA Steering Committee would research the impact of administrative burden on State programs, expanding the definition of reimbursable State services and the implementation of the 6-step process.

For the past two years, the Steering Committee has worked on issues such as training, automation of the DSMOA program, a new CA start date to alleviate funding shortfalls, the creation of the DSMOA Re-Write Team and the quarterly publication of the DSMOA Watch. While all of these issues/projects have been successful and assisted in opening the lines of communication, to date, they have had limited success in assisting States in receiving adequate and timely funding, lessening the burden of the administration of the Cooperative Agreement and increasing the number of State services reimbursed by the DSMOA program (an issue that the State members of DSMOA Re-Write Team hopes to address).



Of particular concern, State members of the DSMOA Steering Committee and the ASTSWMO Federal Facilities Subcommittee believe that over the last couple of months there have been some instances where DSMOA programmatic issues have either been proposed or been dealt with outside of the DSMOA Steering Committee structure. For instance, one of the new initiatives is the decision to audit State DSMOA programs. Our understanding is that the State of Colorado was selected as the first DSMOA program to be audited, due to billing concerns that arose by the Air Force BRAC Office. We consider the Air Force's intention was, and continues to be to restructure States' accounting systems such that DSMOA billing will be scrutinized down to a level of hours States spend on individual tasks. Through conversations with Colorado representatives, we now understand that the Army Corps of Engineers (ACOE) was instrumental in minimizing the Air Force's intent, but ACOE continues to look at what could be considered by most States as a substantial overhaul to the DSMOA accounting system. We're told Colorado went from 5 accounting codes to 14 based on the results of the audit.

States expect to be audited as a normal part of doing business, and routinely are by other federal agencies such as EPA and DOE with which they have funding agreements. However, this new initiative and/or billing code proposal as a finding of the audit, particularly without the ability of the State to rebut the findings, is a change in the scope of work for the DSMOA program and would require bilateral agreement. Additionally, the proposed accounting coding system for Colorado expands the amount of oversight currently being conducted on the \$30 million program and would substantially inflate State and DoD's administrative costs and burden that we both currently have to work through.

For example, Virginia has 57 installations on their DSMOA Attachment A. If they were to break down their activities similar to Colorado's 14 accounting codes, this would mean their 6 DSMOA staff would have to keep track of 798 codes. DoD is not the only Federal Agency that Virginia works with as they partner with over 50 other various Federal agencies.

Ohio has evaluated the potential impact that Colorado's requirement would have if imposed by DoD/ACOE. Ohio currently maintains a computerized time accounting system, which is used to document time staff spend per site based on various activities. Since most of their staff work on private party and federal facility sites, these activities were developed to be consistent between the two different programs. The basis for this was to create a system to track employee resources needed for all cleanup programs (and not just federal facility sites). The current list of activities does not cover all those activities currently being proposed by DoD/ACOE for Colorado.

Based on preliminary estimates, Ohio believes that it will take a capital cost of approximately \$200,000 to modify their current system to include these new activity codes and another \$60,000 per year in administrative support costs to cover training, auditing, and new reporting requirements. Considering that Ohio only has expenditures of approximately \$670,000 per year in DSMOA, these additional requirements would increase their DSMOA costs by 39 percent during implementation, and would increase overall DSMOA costs by almost 17 percent per year. Even if DoD was willing to provide this additional funding for Ohio to make changes that they now want for tracking, Ohio EPA has stated that they would not be willing to do so due to their own internal staff resource limitations.

As stated above, the number of installations and the tracking of such activities vary greatly by State. This needs to be considered in the request for additional accounting code breakdown. The purpose of a semi-annual narrative report is to account for the individual activities. If DoD, the Services and the ACOE want to standardize the DSMOA accounting code system, then they should wait until all the State DSMOA audits are completed to prepare a fair and balanced analysis and accounting code proposal to discuss and negotiate with the States/Territories for the 2006-2008 (or 2008-2010) Cooperative Agreement.

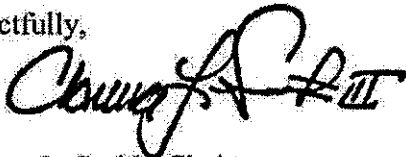
Again, this proposed change will cost additional administration time for the program manager, the project officer, the grants accountant and others, of which the source of funding is currently unknown. The sole purpose of the DSMOA Streamlining Subcommittee was to recommend ways to streamline the DSMOA process, thereby making it less burdensome to States and DoD installations. Considerable time and effort was spent by the Steering Committee members as well as various States in trying to meet the DSMOA program requirements while reducing the reporting and administrative procedures. The latest proposed changes will effectively reverse the success of the Streamlining Subcommittee by adding more administration, process and demands to an already overburdened process.

Given the current budget forecast, DoD, the Services and the ACOE must identify an acceptable funding source, and should expect and have on hand additional funds to develop and support the additional accounting services that are requested. Also, one must consider that States greatly differ with each State having its own laws regarding changes to their accounting systems. Many will be extremely hesitant to modify their existing accounting system without significant reason.

In closing, we believe that this current proposal regarding additional accounting codes has not been researched thoroughly or communicated properly. This issue should be discussed with the States on the DSMOA Steering Committee, in the cooperative spirit that originally formed the Committee. As stated above, this proposal will have a significant, unintended impact on the DSMOA and State programs and will shift more money towards administrative burdens and away from remediation oversight activities.

If you should have any questions, need any additional information or wish to discuss this matter further, please contact me at 217-524-1655 or via e-mail at clarence.smith@ep.state.il.us or Dania Rodriguez, ASTSWMO's Senior Federal Facilities Staff Associate, at 202-624-5973.

Respectfully,



Clarence L. Smith, Chair
ASTSWMO Federal Facilities Research Subcommittee

Cc: Federal Facilities Research Subcommittee
State Members of the DSMOA SC
State Members of the Re-Write Team
ASTSWMO Federal Facility Focus Groups