



The Council of  
State Governments  
**MIDWESTERN  
OFFICE**

November 26, 2003

Patrice M. Bubar  
Associate Deputy Assistant Secretary  
U.S. Department of Energy  
Office of Environmental Management  
EM-20  
1000 Independence Ave., S.W.  
Washington, DC 20585

641 East Butterfield Road  
Suite 401  
Lombard, Illinois 60148-5651  
Tel: 630.810.0210  
Fax: 630.810.0145  
E-mail: [csgm@csg.org](mailto:csgm@csg.org)  
Web: [www.csgmidwest.org](http://www.csgmidwest.org)

Regional Director  
**Michael H. McCabe**

Lexington  
P.O. Box 11910  
Lexington, Kentucky 40578-1910  
Tel: 859.244.8000

Atlanta  
P.O. Box 98129  
Atlanta, Georgia 30359  
Tel: 404.633.1866

New York  
40 Broad Street, Suite 2050  
New York, NY 10004  
Tel: 212.912.0128

Sacramento  
1107 9<sup>th</sup> Street  
Suite 650  
Sacramento, California 95814  
Tel: 916.553.4423

Washington  
444 North Capitol Street, NW  
Suite 401  
Washington, DC 20001-1512  
Tel: 202.624.5460

Dear Patty:

I am writing to request your assistance with a funding issue that has recently come to my attention.

As you may be aware, in September, the Carlsbad Field Office (CBFO) provided CSG-MW with sufficient funding to cover the costs of our transportation project as well as half of the funding promised to the four corridor states in FY04. The balance of the state funding — \$75,000 each for three states, and \$20,000 for one — was supposed to be made available as of January 1, 2004.

Last week, I learned from Ralph Smith that his recommendation to DOE Headquarters was *not* to provide the additional state funding to the Midwest. I have consulted with the corridor states, and they find this recommendation to be completely unacceptable.

Prior to the start of the states' FY04, the CBFO had committed to providing the states with a full year of funding if DOE had not finished shipping transuranic waste through the Midwest by December 31, 2003. As you know, DOE has not completed its TRU waste shipments from Battelle and ANL-E, nor will it by the end of this calendar year.

The four affected corridor states are Ohio, Indiana, Illinois, and Iowa.<sup>1</sup> The states prepared one-year scopes of work, and have been working on those

---

<sup>1</sup> Nebraska appears to be in the same boat, although funding for that agreement is managed by WGA.

activities since July 1. They have activities planned for the January-June timeframe, including an exercise in Ohio. The CBFO's recommendation now puts all those activities in jeopardy.

According to the CBFO, there are three reasons for the recommendation not to award the remaining funding to the states. First, there is the uncertainty in the shipping schedule, particularly with regard to Battelle. I would argue, however, that the schedule has *always* been uncertain — for most sites — and that has never stopped the CBFO from continuing to fund states in the other regions. Moreover, I am receiving conflicting reports from the CBFO and the Columbus Closure Project regarding the likelihood of Battelle shipments resuming early next year. Past experience tells me that projections from the sites themselves are usually more accurate than those from the CBFO, therefore I am inclined to believe the folks in Columbus when they say that spring shipments from Battelle are a distinct possibility.

Second, the CBFO observed that three states in the Midwest have fees. The rationale seems to be that it is sufficient to pay the fees to the states that charge them, and to pay the non-fee states a suitable stipend per shipment. There are several problems with this argument:

1. The Indiana fee does not apply to transuranic waste shipments.
2. The Illinois fee covers the cost of the inspection and escort — not training. Moreover, the state has demonstrated its willingness to work with DOE by not charging its full fee on the shipments from ANL-E. The fee is per cask, so the state *could* charge \$7,500 per fully-loaded shipment. Instead, Illinois has agreed to limit its fee to \$2,500 per truck. In addition, in recognition that it does impose a fee on shipments, Illinois has requested only \$95,000 from the CBFO instead of the \$150,000 that DOE committed to provide.
3. Iowa does not charge its fee on top of the financial assistance available from DOE. Instead, the fee is taken directly from the \$150,000.
4. The states that do not charge fees should not be penalized simply because other states within the region *do* charge fees. At the very least, the CBFO should have consulted the non-fee states to determine whether the stipend approach would be acceptable.

Third, the CBFO said it would be too costly to provide the states with funding to keep the Midwestern route "open" for FY04. The fact is, though, that the route must remain open because shipments are still taking place. As noted earlier, ANL-E is still making shipments and there is some indication that Battelle will be able to resume shipments in the spring. There is a need for training along the routes — training that the states cannot conduct without additional funding from DOE. Switching to a stipend approach in the middle of the fiscal year will completely disrupt the states' plans. A stipend approach is not an acceptable alternative because the states will not receive funding until to shipments actually take place. Given the timing, it will be impossible for the states to train along the routes prior to shipments — thereby defeating the very purpose of WIPP providing funding in the first place.

It should be noted that the states are not opposed to negotiating with DOE on a different approach for funding the states. Indeed, I have spoken several times with the CBFO about the possibility of changing our approach in FY05. What is disturbing is that the CBFO unilaterally made the decision to switch to a stipend approach — in the middle of the fiscal year, with just over one month to go before the funding runs out — without any discussions with the states. Such a move is not at all in keeping with the spirit of collaboration and cooperation that has been WIPP's hallmark for the past decade.

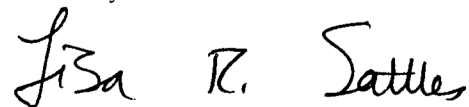
It is especially ironic that we would learn about the CBFO's recommendation on the heels of a very successful meeting between the regional groups and Under Secretary of Energy Robert Card to kick off the collaboration between DOE and the states on the Civilian Radioactive Waste Management System (CRWMS). Mr. Card indicated that WIPP would be the model for the CRWMS. If that is so, then this latest move by the CBFO gives the states great cause for concern.

I realize you are moving on to a new assignment at DOE, but I did want to bring this matter to your attention in the hope that you'll be able to help before the situation gets out of hand. Because January is just around the corner, it is important to resolve the matter as soon as possible.

Please do not hesitate to call me at 920.803.9976 if you have any questions. If necessary, I would be happy to set up a conference call so that you and I can discuss the matter with the corridor states and with the CBFO.

Thanks in advance for your assistance.

Sincerely,



Lisa R. Sattler  
Senior Policy Analyst  
Midwestern Office

cc: Kent Hancock, DOE  
Tim Runyon, Illinois  
Don Flater, Iowa  
Dave Crose, Indiana  
Robert Owen, Ohio  
William Mackie, WGA  
Ralph Smith, CBFO  
Casey Gadbury, CBFO