

APPENDIX G

Penalty Assessments

**PERFORMANCE MEASURES
PENALTY ASSESSMENTS**

1. Introduction

GWA is contracting a PMC to perform against the following key performance indicators:

- NPDES Compliance
- Sewage Spill / Overflows
- EPA/GEPA Notice of Violation (Other)
- Compliance with any applicable local or federal regulatory requirement regarding the operation of water and wastewater facilities.

All performance periods shall commence from the PMC's contract commencement date to the first anniversary of the commencement date. Subsequent performance periods shall fall between contract commencement anniversary dates except for the last contractual year where the performance period is the contract termination date.

The PMC is responsible for all necessary actions required to meet the above key performance indicators. The PMC is responsible to bring into compliance all facilities currently not having permits.

2. National Pollution Discharge Elimination System (NPDES) Compliance

GWA is contracting a PMC to assure that the Wastewater Division is compliant with EPA requirements. The PMC shall track and monitor all NPDES requirements as indicated in existing permits for each wastewater treatment facility.

Should non-compliance be caused by any factor which is completely and totally beyond the control of the PMC, such as forced majeure or catastrophic equipment failure, or unavailability solely caused by the failure of GWA to provide sufficient manpower, GWA and the PMC shall meet and discuss appropriate adjustments in accordance with the following procedures:

- Compliance credit shall start from the determination of the root-cause of the station or equipment outage and terminate when the treatment process is restored into service, except for forced majeure events, where the compliance shall start upon the occurrence of such event.

GWA reserves the right upon future cost analysis results to adjust penalties.

The Non-Compliance penalty shall be computed as follows

I. FIRST INCIDENT FINE:

Should the PMC submit a report identifying a first incident of an NPDES Non-Compliance for a GWA wastewater treatment facility, the PMC shall pay GWA a First Incident Fine of \$2500.

This fine is subject to each permit regulated treatment facility. This fine shall be imposed for each Non-Compliant NPDES report following a Compliant NPDES.

II. CONTINUED NON-COMPLIANCE FINE:

Should the PMC fail to correct a Non-Compliance issue(s) which resulted in the initial First Incident Fine, the PMC shall pay GWA \$1000 for each reported period following the initial reported incident. This shall be referred to as a "Continued Non-Compliance Fine".

This fine is required to ensure that the PMC is making adjustments to correct the initial issue.

III. ADDITIONAL NON-COMPLIANCE FINE:

Should the PMC fail on another requirement of the NPDES following a First Incident Fine and/or Continued Non-Compliance Fine which were , shall pay an additional \$2500 for the initial report if reported separately each Non-Compliance report thereafter.

The PMC shall not be charged the Continued Non-Compliance Fine if the failure is not corrected by the next report and this fine shall not be accumulated with earlier incidents.

Example:

- a) Treatment Facility "A" failed on Biochemical Oxygen Demand parameter. This is a first incident reported after an NPDES compliant report. Fine is \$2500.
- b) Next NPDES report revealed that Treatment Facility "A" continued to fail on the Biochemical Oxygen Demand parameter, but no other parameters were affected. Fine for this report is \$1000.
- c) The following NDPEs report reveals that Treatment Facility "A" continued to fail on the Biochemical Oxygen Demand parameter, and there is a new failed parameter indicated on report. Fine for this report is $\$1000 + \$2500 = \$3500$
- d) Following report indicates original issue and preceding report issues still fail and there are no new issues. Fine is \$1000 only.

3. Sewage Spills / Overflows

GWA is contracting a PMC to assure that the wastewater stations do not pose hazards to the public and the drinking water supply. Pump stations are generally provided with backup units and in some instances multiple backup units to prevent equipment failure and cause sewage overflows/spills. GWA requires no spills at all wastewater facilities. Each spill is subject to \$2500 fine per incident.

5. EPA/GEPA Notice of Violation (Other)

GWA is aware that not all of the treatment facilities or wastewater stations are regulated by NDPES permits which can be regularly monitored and controlled. Operations of these facilities are still governed under the Clean Water Act and other regulations that address environmental and public safety. All notices of violations from EPA / GEPA or other regulatory agencies (federal / local) will be the responsibility of the PMC for all incidents that occur within operations of the wastewater facilities.

GWA will not impose additional fines, however GWA will monitor these incidents, their frequency and severity and evaluate the PMC's overall performance.