

LEAKING UNDERGROUND STORAGE TANKS: CONTROLLING CLEANUP COSTS

Owners of underground storage tanks that are leaking petroleum or hazardous substances are required by state and federal regulations to clean up affected contaminated soil, surface water, and groundwater. Investigating and cleaning up a release can be expensive, but selecting an unqualified or inexperienced contractor to do the work may cost even more.

In general, a consultant should conduct the site characterization to determine the extent of the problem and what needs to be done and a contractor will conduct the cleanup. There are many considerations to keep in mind when searching for a consultant/contractor (referred herein as “contractor”) to provide the most effective and economical site characterization and cleanup for your needs. This fact sheet provides some basic guidelines for finding the best contractor for the job and for controlling cleanup costs.

What’s the first step?

When looking for the best contractor, be diligent. As the tank owner, you are liable for meeting all cleanup requirements, so it is in your best interest to thoroughly assess all candidates. Start by asking other tank owners and operators about contractors they have hired or check with local industry associations for referrals.

Keep in mind that Pennsylvania’s underground storage tank regulations require the use of Department of Environmental Protection (DEP)-certified installers for all regulated tank handling activities, but DEP-certified installers do not have to be retained for the site characterization and cleanup. DEP does not certify contractors for site characterization and cleanup work. However, site characterizations involving groundwater investigation require a licensed professional geologist.

Ideally, when a contractor is needed for site characterization and cleanup, you will have time to go through the selection and contract negotiation steps outlined in this fact sheet. However, in the event of an emergency, you may require the immediate services of a contractor until the situation is stabilized. Under these circumstances you may not have the time to fully investigate the contractor. If possible, check several references before making a commitment. In addition, a contractor hired for emergency response does not have to be retained to complete the site characterization or cleanup.

What kind of contractors are there?

Usually, contractors fall into one of two categories: full-service contractors and specialty contractors. Full-service contractors can perform the site characterization and all cleanup work without hiring additional subcontractors. Specialty contractors usually perform only certain aspects of a site characterization or cleanup. A specialty contractor generally works on limited activities, such as installing wells or designing a cleanup plan.

How should potential contractors be assessed?

Whether you hire one contractor to perform both the site characterization and cleanup, or hire separate contractors, you should ensure you are paying appropriate fees for adequate services.

- Obtain written bids from at least three contractors. Bids should include a list of the tasks the contractors will perform, the costs for each task, the project timetable, and the terms and conditions of payment. Request the same information from all contractors so the bids may be compared.
- Have each bidder explain the rates they charge so you know what is included. Obtain a list of the junior-, mid- and senior-level staff, their qualifications and experience, and what tasks each will perform to make sure expensive senior staff are not doing the work that less-expensive staff could perform, such as soil sampling.
- Ask each bidder if they intend to use subcontractors and ensure the contract bid includes all applicable subcontractor fees.
- Obtain a list of references from each bidder, especially for work done in Pennsylvania. The selected contractor should be knowledgeable of the state cleanup requirements and have experience with other similar cleanup projects in Pennsylvania.
- Understand the proposed payment terms, including interest charges on outstanding bills. Ask questions; clear understanding is crucial for evaluating the bids.

Look for experienced contractors. Make sure the selected contractor has access to the equipment needed to clean up the site and has adequate insurance coverage. Get answers to the following questions:

- Does the contractor have vapor-monitoring instruments and do they properly maintain and calibrate the equipment?
- Does the contractor have staff experienced in monitoring well design and installation?

- Has the contractor installed groundwater recovery systems? Were these systems effective?
- Does the contractor, and subcontractors if applicable, have insurance coverage? To minimize your liability, do not contract with a firm that does not have environmental pollution liability insurance. If a firm is self-insured, make sure it has adequate resources set aside to cover any problems that might occur.

What types of contracts are best?

Generally, for site characterization and cleanup management, two types of contracts are negotiated: time-and-materials and fixed-price.

A time-and-materials contract is less common and often less desirable than a fixed-price contract because there is little incentive for the contractor to hold down costs. The contractor charges by the hour rather than for the completed cleanup. This contract may be the preferred option if you are uncertain of the type of work needed, particularly for site characterization. However, you can include a not-to-be-exceeded cost limit in the contract.

In a fixed-price contract, one price covers the whole site characterization or cleanup from start to finish. All fees, services, personnel, and equipment costs are included. This helps to control costs by ensuring you will not pay the contractor for services beyond the agreed-upon scope of work. Be careful to ensure the contractor does not take shortcuts in completing the work.

How should a contract be negotiated (contract requirements)?

The contract serves as the blueprint for the site characterization and cleanup. It also spells out what you and the contractor have agreed to regarding costs and payment. The following are suggestions for negotiating the best contract:

- Require the contractor to notify you when certain stages of the cleanup have been completed.
- Stipulate a payment policy for idle time. Any delays caused by the contractor's poor planning should not be charged to you.
- Pay only for completed work, not projected work.
- Require the contractor to bill you at regular intervals.
- Be clear that you will not pay for substandard work.
- Encourage on-site treatment of soils, which is often cheaper than hauling the contaminated soil to a landfill or treating it at an off-site facility. But first ask for comparative prices for these options.

What should the contractor's invoice include?

Understanding the bill is essential to controlling costs. When you receive the first bill, you should review it with the contractor to verify that all charges are legitimate, accurate, and timely.

There are two basic rates a contractor can charge: straight rates and loaded rates. Straight rates are when a contractor separates out cost elements including labor, overhead costs, other business expenses, and profits. Loaded rates are when a contractor groups the cost elements into fewer charges. The selected method will depend on the contract terms. You should understand which rates the contractor charges. Most contractors calculate cost figures with the following charges in mind:

- Direct labor -- employees' salaries, not including benefits;
- Fringe benefits -- vacation, sick, and holiday time;
- Other direct costs -- equipment, supplies, travel, and soil disposal;
- Overhead -- contractor's rent, utilities, and phone bill;
- General administrative costs -- costs that are not directly billable to a customer;
- Subcontractor costs, if relevant.

How should a cleanup be supervised?

As the tank owner, you are both a supervisor and a customer. You should manage the contractor; not the other way around. Both you and the contractor should understand the state requirements for cleanup. Consider having someone on site every hour the contractor is on site so they can verify the cleanup activities performed. While it is critical that the contractor does a thorough job, keep an eye on tasks that contractors tend to overdo, such as:

- Excavating and hauling soil instead of on-site treatment;
- Collecting too many soil and water samples for testing;
- Installing too many monitoring wells; and
- Conducting more lab analyses than necessary.

Ask the contractor to keep a daily log of activities that can be inspected upon request. This protects you from being overcharged.

For more information, visit www.dep.pa.gov, search term: Storage Tank Cleanup.