Controlling UST Cleanup Costs

Fact Sheet 2: Negotiating The Contract

Build Trust

As a business person, you know that in business agreements there is almost always room for bargaining. Like the other contracts you've worked out, site assessment and cleanup contract negotiations start as a series of questions. Remember, contractors want to work with you, and answering your questions is part of getting the job.

The contract serves as a blueprint for the site assessment and cleanup, and it shows both you and the contractor where you've agreed to spend your money. Remember, you can use the same or different contractors for the site assessment and cleanup jobs. Understanding and evaluating the bids from all contractors is your responsibility.

Get It in Writing

Most contracts will have a scope of work; that scope of work should include four kinds of basic information:

- Details of the tasks to be performed (for example, the number of wells to be drilled)
- Specifics on the training of staff required to perform those tasks
- Schedule of when the tasks are to be performed
- Costs of each of the tasks to be performed

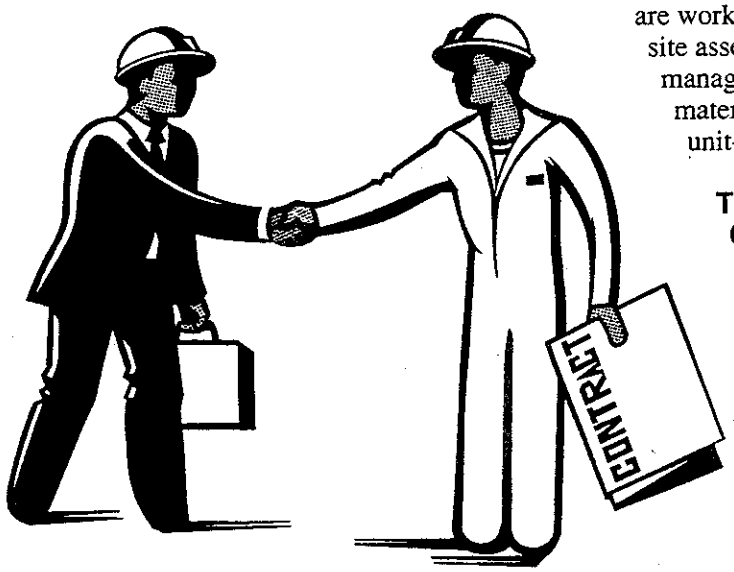
Make sure you understand all of the components.

Control the Project

- **Know Regulations:** Before you hire a contractor, learn your State's Underground Storage Tank (UST) program regulations. Most States have a fund to help UST owners pay for cleaning up tank leaks. The fund is generally managed by a State Fund Administrator. Check with your State Fund Administrator to see if you're eligible to receive the funds and to learn about other requirements (for example, invoices) you need to understand before you hire a contractor. Make sure the contractor follows these requirements.

- **Take Charge:** Manage the contractor; don't let the contractor manage you. Make certain that the contractor answers to you. Remember, the State holds you responsible for the cleanup of your spill.

Three Types of Contracts



Generally, three types of contracts are worked out for site assessment and cleanup management: time-and-materials, fixed-price, and unit-price.

Time-and-Materials Contract

- **Charged Hourly:** This contract buys you hours of service, not a completed cleanup. Though not as common as the fixed-price contract, this type of

deal is negotiated if you're uncertain of the type of work needed. Time-and-materials contracts involve loaded rates, which typically include the contractor's salary, fringe benefits, and overhead. (See Fact Sheet 3 on billing for a more detailed discussion of loaded rates.)

Fixed-Price Contract

- **One Price:** In a fixed-price contract, one price covers the whole site assessment or cleanup from beginning to end. This includes person hours, equipment hours, and all fees and services. You control costs by letting the contractor know that you will not pay for work beyond the scope of work unless you specifically agree to it. You need to be careful that contractors don't take shortcuts in completing work.

Unit-Price Contract

- **Charged by Specific Task:** In a unit-price contract, a project is divided into specific tasks called work units, and a price is attributed to each. Examples of work units are:
  - Taking soil borings (per foot or other unit)
  - Sampling and analyzing groundwater from a monitoring well
  - Excavating contaminated soil (per cubic yard or other unit)

The unit price includes labor (salary, fringe benefits, and overhead) and materials necessary to properly complete the task. Profit is included in the unit price. An advantage to the unit-price contract is that you are not required to pay for uncompleted tasks or inefficiencies on the part of the contractor. As with fixed-price contracts, you need to be careful that contractors don't take short cuts in completing work.

Cost-Cutting Tips

- **Check Bargains:** Don't let the lowest bidder fool you. The lowest bid may appear cheapest, but you might end up paying for expensive mistakes or redoing work that wasn't done right the first time. Select an experienced contractor who provides high-quality work.

- **Hire Experience:** Contact your State UST program about their experience with contractors. You're better off with a contractor with a lot of State experience and good reviews on cost-effectiveness and timeliness. Make sure the contractor has insurance and access to the proper equipment.

- **Monitor Budget:** Show cost limits for specific tasks in the contract. Require the contractor to tell you when he/she has reached certain points (for example, 25 percent of tasks and costs, 50 percent, 75 percent). Make sure your contractor sticks to a schedule and informs you when he/she cannot.

- **Condition Payments:** Connect payment for services to the satisfactory completion of necessary work. Stipulate a policy on payment for idle time. (For example, delays in obtaining equipment caused by the contractor's poor planning should not be charged to you.)

- **Watch Closely:** Negotiate a price ceiling into the contract and monitor charges and performance. Make notification of any changes in the scope of work mandatory for payment. Be sure that you are paying for completed work, not projected work. Make sure that you preapprove all overtime.

- **Promote Quality:** Make it clear that you will not pay for substandard work.

- **Stay Home:** Encourage on-site treatment of soils. On-site treatment is often cheaper than hauling the soil to a landfill or treating it at an off-site facility. Check with your State UST program to see if this is an acceptable practice.

And Remember: The sooner a spill is cleaned up, the better. The longer you wait, the more the damage will spread and the more the cleanup will cost.

Fact Sheet 2 was developed by the Environmental Protection Agency's Office of Underground Storage Tanks in conjunction with State Fund Administrators. It is one of a series; the others are: *Hiring a Contractor, Interpreting the Bill, Managing the Process,* and *Understanding Contractor Code Words.* For copies of these fact sheets or more information, contact your State Fund Administrator for USTs and/or your State Underground Storage Tank program.