

State Performance-Based Environmental Cleanup Programs

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Many states are moving toward performance-based cleanup programs to reduce costs and improve accountability. Pay-for-Performance (PFP) Underground Storage Tank (UST) cleanup contracts are achieving great success in South Carolina, Florida, Oklahoma, and California. PFP agreements require contractors to achieve measurable environmental goals for a fixed price and reward them for quick and efficient cleanup.

Environmental cleanups have traditionally been conducted on a Time and Materials (T&M) basis. T&M cleanups require that the contractor bill the client for hours worked and cost of materials used to complete the job. These type of cleanups often go on longer than necessary given the lack of performance standards and time limits. Moreover, there is little incentive to utilize the best technologies or develop innovative practices. Cleanup costs under T&M contracts often inflate as a result.

PFP cleanups have a fixed price, a time limit, and a set environmental goal. A PFP agreement can be used in many types of cleanup ranging from the removal of contaminants from a water supply to the remediation of a brownfields site. Human health and environmental protection are strengthened by linking the contractor payment to the level of contaminant reduction. Instead of compromising environmental goals to cut cleanup costs, PFP agreements encourage contractors to use cutting-edge cleanup technology. This triggers market competition and drives remediation fees down. In addition, PFP agreements reduce the administrative costs for contractors and the government.

South Carolina

The South Carolina Bureau of UST Management implemented a PFP remediation program for state-funded cleanups in 1997. The Bureau's program goals are to encourage contractors to be more efficient and effective by achieving cleanup at a reasonable price and simplifying invoicing. In an effort to streamline the process, the PFP program implemented the practice of competitive bidding. What makes South Carolina's program unique is that it is mandatory. The Bureau's approach to this program has produced outstanding results.

The PFP program is well defined. First, the solicitation for a bid is posted in the state business publication. The solicitation includes project specifics that will guide contractors in formulating a bid, such as cleanup goals, site maps, and technical data. Interested contractors then submit a proposal that identifies a cleanup approach, anticipates a completion deadline, and quotes a total fee for service. Program staff then evaluate the proposals employing a set criteria based on technology feasibility, time, and total cost. If several bids satisfy all of these parameters, the contractor offering the lowest bid is selected.

The PFP program has reduced costs, improved cleanup quality, and significantly diminished the vast amount of invoices that were received under the T&M method.

Once a cleanup milestone is achieved, invoices requesting payment of the percentage of the total cost are submitted on a single sheet of paper.

South Carolina advocates implementation of the PFP process because it focuses the contractor, the regulator, and the fund administrator on environmental results rather than administrative red tape. For further information on South Carolina's PFP program, contact:

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Florida

In 1996, the Florida legislature mandated that the Department of Environmental Protection initiate a pilot program for the bidding of petroleum site cleanup services. Florida is yet another state that enjoys the benefits of PFP contracts.

Florida has found that bidding a PFP contract has distinct advantages over negotiating a cleanup cost under the former pre-approval program. Bidding places the burden on the consultant to determine the best, most efficient cleanup strategy. PFP bids are easier to prepare because the bidding process is fairly straightforward. Moreover, the quality of the final PFP cleanup has been found in most cases to be just as good as the standard work under the pre-approval process.

Most importantly, the practice of bidding under the PFP method has produced cleanups at one-third the price for time and materials – an estimated state savings of \$815,671 or 64 percent. This is due largely to the significant decrease in administrative overhead.

By conducting a competitive bidding process for petroleum cleanup services, Florida claims to have discovered an unbeatable way to manage their cleanup program. For further information on Florida's PFP program, contact:

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Oklahoma

The Oklahoma Petroleum Storage Tank Division established their performance-based cleanup program in 1996 and made it mandatory in 1998. Oklahoma's first step in instituting its PFP program was to identify on-going cleanups where, despite significant site expenditures, contamination levels had stopped declining. Sites were selected if neither the cleanup contractor nor the responsible party could demonstrate a way to reach cleanup goals within a reasonable time. Remediation expenses for many of these

sites were previously based on T&M invoicing before conversion to performance-based remediation. For these conversion sites, Oklahoma estimates that \$6,629,000 of unnecessary expenses were incurred prior to obtaining cleanup guarantees at an agreed-upon, reasonable price.

Once these site contracts were converted to PFP cleanups, Oklahoma enjoyed many benefits such as:

- Consultants install better-designed systems;
- Guaranteed results;
- Manageability of flow of fund money;
- Faster payment of claims and minimal reimbursement disputes;
- Reduction in claim support documentation; and
- Improved collaboration between tank owners, consultants, and the state.

Implementation of the PFP program in Oklahoma has greatly expedited cleanup schedules. For example, under the former T&M system, the reduction of groundwater benzene concentrations was minimal, often times taking several years to achieve nominal results. PFP contracts now yield tremendous benzene decreases in just months. In fact, although many PFP contracts require cleanup within three to five years, many contractors meet these final goals in just 16 months.

Another successful element of the Oklahoma PFP program is the negotiation and bidding system. Oklahoma uses a customized price build-up computer program called TankRACER which calculates a reasonable price for cleanup. This software can be accessed at <http://www.epa.gov/swerust1/tnkracr1.htm>.

Oklahoma firmly believes that their PFP program benefits citizens, storage tank business owners of all sizes, the consultant, the state, and the environment. For more information regarding Oklahoma's PFP program, contact:

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California

California initiated a voluntary PFP contracting program for UST cleanups in 2001. To date, six sites are being cleaned under PFP contracts and six more projects are pending. California became interested in PFP contracting after learning about South Carolina and Oklahoma's impressive results using the PFP method. Both states have documented cost savings and quicker cleanups under PFP. Although the California program is still in its early stages, testimonials from state officials report that PFP contracting requires significantly less administrative time. Some paperwork requirements were reduced from hundreds of pages down to just one page. In addition, the state hopes to reduce the time it takes a contractor to receive payment after filing a request from several months down to just 30-45 days.

For more information on California's UST Cleanup Fund, go to <http://www.swrcb.ca.gov/cwphome/ustcf/fundhome.htm> or contact:

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Federal Efforts

Of the estimated 450,000 brownfields sites in the United States, about half of these properties are thought to be impacted by USTs or some type of petroleum contamination. However, petroleum contamination is generally excluded from coverage under the Comprehensive Environmental Response, Compensation, and Liability Act and thus is not covered under the U.S. Environmental Protection Agency's (EPA) Brownfields program. EPA's Office of Underground Storage Tanks (OUST) is undertaking a USTfields initiative to address the issue of petroleum contamination. The program goal is to apply the many advances in brownfields redevelopment to the numerous – and often smaller and more rural – USTfields sites. USTfields involve abandoned or underused industrial and commercial properties with perceived or actual contamination from petroleum that has leaked from underground storage tanks.

In July 2002, EPA announced 40 pilots totaling \$3.8 million in grants awarded to 26 states and three tribes to cleanup properties contaminated from leaking USTs. These 40 pilot grants are being given to states and tribes to demonstrate what can be accomplished in the assessment and cleanup – and ultimate reuse – of petroleum-impacted sites when federal, state, tribal, local, and private entities work together. Each pilot will receive up to \$100,000 to assess and cleanup UST petroleum contamination. These pilots are intended to provide useful information and strategies to promote a unified approach to site assessment, environmental cleanup, and redevelopment of contaminated properties. The grants will spur partnerships among state and local governments, community groups, investors, and developers to get sites cleaned up and ready for community use instead of remaining a liability to the community and a continued threat to public health and the environment.

For additional information on this EPA initiative or on other federal PFP efforts contact:

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