



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Illinois

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CLERK'S OFFICE

AUG 26 2005

STATE OF ILLINOIS
Pollution Control Board

August 23, 2005

Ms. Marie Tipsord
Hearing Officer
Illinois Pollution Control Board
Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

PC#58

Re: Written comments pertaining to R04-22 (UST Rulemaking) and R04-23 (UST Rulemaking Consolidated)

Dear Ms. Tipsord:

I am writing on behalf of the American Council of Engineering Companies of Illinois (ACEC-Illinois), a statewide association of 230 engineering firms that together employ over 8,500 engineers, architects, scientists and support personnel, regarding the proposed rules for the Underground Storage Tank program. We have two issues. The first deals with Qualifications Based Selection of professional services, as opposed to price bidding. The second pertains to the lack of a clearly defined scope of work to coincide with the flat rate fee structure proposed by IEPA.

The Agency intends to bid the professional services as outlined in Subpart H 734.855. This is not commensurate with federal and state policy wherein professional services of this nature are procured from private firms based upon qualification factors. The federal Brooks Act, dating to 1971, requires all federal agencies to use Qualifications Based Selection when procuring design services. In many cases, other federal laws require the same of state and local governments when using federal funds. The Illinois Qualifications Based Selection Act requires state agencies, including IEPA, to use Qualifications Based Selection when selecting design firms. The Local Government Professional Services Selection Act requires local governments to use QBS.

The QBS process is recommended by the American Bar Association in their Model Procurement Code. Most design professional associations and the major public works associations recognize it. Thus, it appears unreasonable for the Agency to require bidding by private tank owners when it clearly goes against public policy outlined for government agencies. On behalf of ACEC-Illinois, I would request that professional services be exempted from the bidding requirement outlined in Subpart H 734.855 as it is contrary to current law and practice.

Regarding definition of scope of work, ACEC-Illinois has a continuing concern with the lack of clear delineation of the scope of work for professional services proposed at 732.845/734.845. In our opinion, discussion and agreement on a scope of work for each work task during the rule development phase would greatly reduce time spent by consultants, the Agency and the Illinois Pollution Control Board resolving related issues during implementation of the rule. A defined scope of work would provide guidance for evaluating whether a circumstance is unusual or extraordinary resulting in the submittal of fewer unwarranted demonstrations pursuant to 734.860. The number of appeals to the Board would correspondingly be reduced. We request that the Board add "scopes of work" to the rule as an Appendix using the detailed information provided in Attachment B to Daniel J. Goodwin's May 11, 2004 Pre-filed Testimony and supplemental information provided by other Testimony and Comments.

The maximum amounts are low for some tasks based on the estimated hours provided in Attachment B to Daniel J. Goodwin's May 11, 2004 Pre-filed Testimony and the hourly rates in the Proposed Rule. Specific examples include \$500 for the preparation of reports pursuant to 734.845 (a)(3)(6), \$160 for well surveys pursuant to 734.845 (b)(7) and \$390 per half-day for fieldwork and oversight.

Report preparation includes the tabulation of data and preparation of a site map showing the property lines of the site, the adjacent sites and any other sites that may be adversely affected. Subcontracting of a registered land surveyor would often be necessary to accurately determine the property line locations as required by rule and the cost for this alone would be greater than \$500.

The well survey includes obtaining records from the Illinois State Geological and Water Surveys, tabulating the information and preparing a map to show the well locations. Once the fees for records have been paid there is little time at the proposed personnel rates for evaluating and reporting the results.

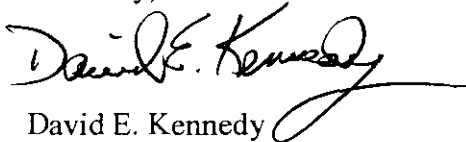
The \$390 per half-day for field work and oversight for Early Action, Stages 1 through 3 and Corrective Action is not adequate to cover a field geologist, oversight by more experienced personnel for critical elements and the necessary equipment and materials. Equipment and materials costs are typically on the order of \$100 to \$200 per day and include rental of a photo ionization detector and water level indicator, bailers, protective clothing and decontamination materials. If a Geologist I at \$70 per hour (Appendix E) performs the drilling oversight and logging, then there would be little or no remaining money for a more senior person.

There is no discussion in 734.845 about well development, aquifer testing or groundwater sampling, all of which are necessary site investigation activities. Clarification is needed on the whether these activities will be reimbursed pursuant to 734.850 or will have maximum payment amounts. A trip should be allowed for well development after the concrete has set. Another trip should be allowed for sampling at least a couple days after well development, depending on the aquifer, to obtain representative ground water levels. Aquifer testing can typically be done during the groundwater sampling trip.

Finally, 734.845(a)(5) indicates that Stage 3 site investigations will be reimbursed pursuant to Section 734.850 (Payment on Time and Materials Basis), yet 734.845(b)(6) specifies maximum payment amounts for Stage 3 fieldwork and oversight.

Thank you for this opportunity to comment. Please feel free to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "David E. Kennedy". The signature is written in a cursive style with a long, sweeping underline.

David E. Kennedy
Executive Director

/dek
Attachment

ATTACHMENT B

Early Action Task List

20 Day Certification and 45 Day Report Preparation Tasks

Set up project file (obtain general project data: address, contact info, etc.)

Set up project status tracking sheet

Prepare site health and safety plan

Prepare 20 Day certification

Call J.U.L.I.E and / or municipality for utility locate

Prepare CAD map(s)

FOIA IEPA and / or OSFM records

Obtain well records from ISGS and ISWS

Review well records and prepare well location map

Obtain local information (i.e.. Sanborn maps, Aerial overlays, etc.)

Determine expected local site geology (subsurface soil conditions)

Prepare cross section

Draft 45 Day report (tables and narrative), provide data concerning:

Nature and estimated quantity of release

Surrounding populations

General water quality

Use and approx. location of wells potentially affected by the release

General subsurface soil conditions

Locations of subsurface sewers

Climatological conditions

Past, present and potential future land use

What was done to evaluate presence of contamination

Actions taken to prevent further release of substance into environment

Analytical / screening results (in tabular format)

UST information (in tabular format)

Word processing

Prepare and describe photos

45 Day report review by PM or other senior staff

General correspondence with client and Agency

Project update to client

Mail draft 45 Day report to O/O for review and signature

Make Copies of final 45 Day report for distribution

Deliver completed 45 Day report to IEPA and O/O

Initial site visit by PM or other senior staff

Site visit by technician or scientist to prepare site map(s)

Ad Hoc Committee's Total Office Labor Hour Estimate: 60

Other Direct Expenses

Copy charges / postage
Record costs / postage

Document costs

Film / photo finishing

Postage

Postage

Copy charges

Postage

Daily charges

Daily charges

Other Direct Expenses

Early Action UST Removal / Excavation Tasks

Prepare waste profile (arrange for landfill approval)

Determine EA excavation limits

Arrange for excavator (tank removal contractor)
 Prepare waste manifests (or tracking forms)
 Project scheduling
 Collect sample for waste profile (landfill approval)
 Field oversight and sampling (UST removal / EA excavation)

Daily charges
 Daily charges

Ad Hoc Committee's Total Office Labor Hour Estimate: 12
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Free Product Recovery Task List

Free Product Recovery Preparation Tasks

Time & Material

Free Product Recovery Fieldwork

Daily charges

Free Product Recovery Report Preparation Tasks

Direct Expenses

Draft free product recovery report (tables and narrative), provide data concerning:

- Name(s) of person(s) responsible for implementing free product recovery*
- Estimated quantity, type and thickness of free product observed*
- Type of free product recovery system used and justification for method*
- Whether discharge will take place during recovery and location of discharge*
- Treatment type applied to any discharge and effluent quality expected*
- Steps taken / required to obtain necessary permits for discharge*
- Final disposition of recovered free product*
- Table showing dates of free product recovery and quantity recovered*
- Copies of waste manifests*

Site map(s) to scale and oriented north showing:

- UST system(s) and excavation*
- Product and dispenser lines*
- Pumps and islands*
- Underground utility lines (sewer, gas, water, etc.)*
- Nearby structures (buildings, roads, etc.)*
- Soil boring(s)*
- Monitoring well(s)*
- Locations where free product was encountered & estimated thickness*
- Location of recovery points*
- Location of the treatment unit*
- Location of discharge points*
- Property boundaries*

Word processing

Free product recovery report review by PM or other senior staff

General correspondence with client and Agency

Postage

Project update to client

Mail draft free product recovery report to O/O for review and signature

Postage

Make Copies of final free product recovery report for distribution

Copy charges

Deliver completed free product recovery report to IEPA and O/O

Postage

Low Priority Corrective Action Task List

Low Priority Ground Water Monitoring Plan Preparation Tasks

Direct Expenses

Draft LP GW monitoring plan (tables and narrative), provide data concerning:

Proposed time table for well installation, sampling and report submittal

Discussion of monitoring well development procedures

Discussion of monitoring well sampling procedures

Activities that will be taken to prevent sample cross-contamination

Adequacy of the monitoring well configuration to detect contaminant migration

Site map(s) to scale and oriented north showing:

UST system(s) and excavation

Product and dispenser lines

Pumps and islands

Underground utility lines (sewer, gas, water, etc.)

Nearby structures (buildings, roads, etc.)

Location of soil boring(s)

Location of monitoring well(s)

Property boundaries

Radius of 200 feet from the excavation

Word processing

Prepare budget forms

LP GW monitoring plan & budget review by PM or other senior staff

General correspondence with client and Agency

Postage

Project update to client

Mail draft LP GW monitoring plan & budget to O/O for review and signature

Postage

Make Copies of final LP GW monitoring plan & budget for distribution

Copy charges

Deliver completed LP GW monitoring plan & budget to IEPA and O/O

Postage

Ad Hoc Committee's Total Office Labor Hour Estimate: 40

Low Priority Ground Water Monitoring Fieldwork

Daily charges

Low Priority Ground Water Monitoring Report Preparation Tasks

Direct Expenses

Draft LP GW monitoring plan (tables and narrative), provide data concerning:

Description of implementation & completion of all elements of plan

Description of well development, sample collection, preservation & analysis

Analytical results in tabular format

Copies of laboratory reports

Copies of laboratory certifications

Ground water elevations in tabular format

Monitoring well logs

Completed chain-of-custody form(s)

Site map(s) to scale and oriented north showing:

UST system(s) and excavation

Product and dispenser lines

Pumps and islands
Underground utility lines (sewer, gas, water, etc.)
Nearby structures (buildings, roads, etc.)
Location of monitoring well(s)
Direction of groundwater flow (groundwater contouring)
Property boundaries
Radius of 200 feet from the excavation

Word processing

LP GW monitoring report review by PM or other senior staff

General correspondence with client and Agency

Project update to client

Mail draft LP GW monitoring report to O/O for review and signature

Make Copies of final LP GW monitoring report for distribution

Deliver completed LP GW monitoring report to IEPA and O/O

Postage

Postage

Copy charges

Postage

Ad Hoc Committee's Total Office Labor Hour Estimate: 32
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High Priority Corrective Action Task List

Conventional (Dig & Haul) Corrective Action Plan and Oversight Tasks

Direct Expenses

Prepare waste profile (arrange for landfill approval)

Mail waste profile to O/O for review and signature

Prepare (update) site health and safety plan

Determine limits of excavation

Estimate quantity of contaminated soil to be disposed of

Estimate quantity of "clean" overburden to be stockpiled (if any)

Draft Corrective Action Plan (tables and narrative), provide:

Description of activities performed to define extent of contamination

Analytical results and cleanup objectives in tabular format

Laboratory reports

Boring logs

Monitoring well logs

Discussion of how corrective action plan shall remediate the release

List of sampling parameters and corresponding remediation objectives

Basis for determining sampling parameters and remediation objectives

Media sampling plan to verify completion of remediation

Current and future use of property

Proposed preventive, engineering and institutional controls

Schedule for implementation and projected completion of the plan

Engineering diagrams, calculations, site maps, etc.

Site map(s) to scale and oriented north showing:

Soil sample locations

Monitoring well locations

Plume of soil and groundwater contamination

Word processing

Prepare budget forms

CAP & budget review by PM or other senior staff

Prepare P.E. / P.G. & O/O Budget Certification

General correspondence with client and Agency

Project update to client

Postage

Mail draft CAP & budget to O/O for review and signature
 Make Copies of final CAP & budget for distribution
 Deliver completed CAP & budget to IEPA and O/O
 Arrange for excavator
 Arrange for trucking (transportation)
 Arrange for backfill
 Prepare waste manifests (or tracking forms)
 Project scheduling
 Call J.U.L.I.E and / or municipality for utility locate
 Prepare (finalize) field notes

Postage
 Copy charges
 Postage

Prepare and describe excavation photos
 Collect sample for waste profile (landfill approval)
 Field oversight and excavation sampling

Film / photo
 finishing
 Daily charges
 Daily charges

Ad Hoc Committee's Total Office Labor Hour Estimate:	64
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Alternative Technology Corrective Action Plan Tasks

Time & Material

TACO Tier II or Tier III Evaluation / Calculation Tasks

Time & Material

Conventional (Dig and Haul) Corrective Action Completion Report Preparation Tasks

Direct Expenses

Prepare CAD map(s)
 Draft Corrective Action Completion Report (tables and narrative), provide:
 Chronological narrative of corrective action activities
 Explanation of how the corrective action activities remediated the release
 Discussion of how the remediation objectives were determined
 Media sampling and analytical procedures to verify completion of remediation
 Analytical results and remediation objectives in tabular format
 Laboratory reports
 Soil boring logs
 Monitoring well logs
 Laboratory certification
 Professional Engineer Certification
 Owner / Operator & Property Summary
 Photographs documenting corrective action activities
 Word processing
 Prepare and describe photos
 Obtain legal description of property
 Obtain property tax identification number
 CACR review by PM or other senior staff
 General correspondence with client and Agency
 Project update to client
 Mail draft CACR to O/O for review and signature
 Make Copies of final CACR for distribution
 Deliver completed CACR to IEPA and O/O
 Record NFR letter
 Make Copies of recorded NFR letter for distribution

Film / photo
 finishing

Postage

Postage
 Copy charges
 Postage
 Recording costs
 Copy charges

Deliver recorded NFR letter to IEPA and O/O
 Site visit by technician or scientist to prepare site map(s)

Postage
 Daily c je

Ad Hoc Committee's Total Office Labor Hour Estimate: 64

Reimbursement Request Preparation Task List

Reimbursement Request Preparation Tasks

Direct Expenses

Prepare OSFM eligibility and deductible application	
Mail draft eligibility and deductible application to O/O for review and signature	Postage
Deliver completed eligibility and deductible application to OSFM and O/O	Postage
Setup reimbursement file	
Review & process subcontractor invoices	
Cost and budget tracking	
Draft LUST reimbursement claim request	
Reimbursement claim review by PM or other senior staff	
Prepare P.E. / P.G. & O/O Billing Certification	
General correspondence with client and Agency	Postage
Mail draft reimbursement claim to O/O for review and signature	Postage
Make Copies of completed reimbursement claim for distribution	Copy charges
Deliver completed reimbursement claim to IEPA and O/O	Postage

Ad Hoc Committee's Total Office Labor Hour Estimate: 32