

GENERAL INFORMATION

INTRODUCTION

The following discusses the PBC for ACR that is direct assigned to an Agency Term Contractor (ATC). Note that this type of PBC differs from the Individual PBC for less than \$325,000, the Individual PBC for greater than \$325,000 (Quote PBC (QPBC)), or the PBC for Advanced Cleanup Bundles (PBAC) of five (5) or more sites. The AC Statute, Florida Statute (F.S.) 376.30713 provides for Advanced Cleanup for Redevelopment (F.S. 376.30713(2)(a)6(c)). The ACR Agreement is a three-party agreement; any changes in applicant and/or property owner must be communicated to the site manager immediately.

An ACR application may be submitted at any time. Applications are reviewed on a first come first serve basis and placed in a cue to negotiate. If fiscal year funding is not available, the applications place in the cue is held until the next fiscal year. All ACR Agreements will be administered as a PBC. The application process for an ACR differs from other AC programs. ACR:

1. ACR funding cannot exceed \$1,000,000 per year per applicant.
2. No minimum Applicant Share is required; however, Petroleum Contamination Cleanup Participation eligibility requires a co-pay of 25%.
3. A complete Limited Contamination Assessment Report (LCAR) is required (see LCAR Guidance and LCAR Checklist) must not only demonstrate a thorough understanding of historical and current petroleum contamination at the site, but also support the proposed course of remediation and accompanying cost. An LCAR in support of an ACR application may exceed the scope of an LCAR required for a Petroleum Contamination Participation Program (PCPP) application.
4. The application packet must contain documents related to the planned development.
 - a. The nature of the planned development.
 - b. A proclamation, letter of acknowledgement, etc. from a local or regional entity noting acceptance of planned development. A variety of documents may fulfill this requirement, discuss with the Site Manager (SM).
 - c. Documentation that funds are available to complete the proposed development. This documentation may be a letter from a bank or documentation of holdings in excess of planned development. A variety of documents may fulfill this requirement, discuss with the Site Manager (SM).
 - d. A figure or plan showing the footprint of proposed development.
 - e. An anticipated timeline for completion.

Performance Based Cleanups (PBCs) focus on the completion of milestones on the way to an aggressive, efficient, and successful cleanup of petroleum contaminated facilities. All payments require the successful completion of Milestones. The ATC is expected to perform all actions necessary to meet the agreed milestones. Completion of milestones prior to the milestone due date will be paid at the time of milestone completion.

Communication among the Applicant, ATC, Developer, and the Department is crucial to the successful completion of an ACR PBC Purchase Order (PO). It is anticipated that remediation

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activities and development activities may occur simultaneously and/or consecutively.

The ATC contract is in force, except when in conflict with the PBC Special Terms and Conditions, in which case the PBC takes precedence.

All components of the ACR PBC Scope of Work (SOW) are negotiable; technology, total cost (Purchase Order ceiling), milestones, %milestone payments, closure/end point, and milestone due days. The goal of negotiation is to increase the reward and decrease the risk to both the Department and the ATC.

ESTIMATED COST TO PO ENDPOINT (PBC PO CEILING AMOUNT)

- Estimated Total Cost to Closure: To assist with the evaluation of total cost, the ATC is asked to submit a Schedule of Pay Items (SPI) with “best estimates” of line items required. It is assumed that the Total Cost presented prior to negotiation is less than the line-item total and that the total is within an average range for the region.
 - The ACR does not pay for activities required of the development, such as demolition, concrete/asphalt removal, abandonment of wells required of development activities, removal of petroleum system components (unless required for the petroleum cleanup), and resurfacing.
 - The owner/applicant or ATC pays costs of establishment, maintenance, and decommission of utilities. These estimated costs should be carefully considered and included in the estimated cost to reach the endpoint. Associated costs are included in the ceiling amount and distributed across all % milestone payments.
 - If applicable, the ATC will coordinate with the applicant/developer to ensure fill is compacted pursuant to building requirements.
- Milestone Cost: The amount paid for the completion of each milestone is a percentage of total cost. Note that close to 40% of the ceiling is placed in the last 2 or 3 milestones. It is expected that milestones involving system construction or source removal will have a higher percentage payment.

PO CLOSURE ENDPOINT

The PO endpoint (final milestone) may be negotiated. A number of endpoints may be considered including (not limited to):

- a. Chapter 62-780.608 (1),(2),(3) F.A.C.,
- b. Alternative Endpoints (for example. reduction below Natural Attenuation Defaults Concentrations (NADCs).

CORRECTIVE BASED ACTION (CBA)

The ATC is asked to consider actions to be taken, if necessary, to meet milestones in a timely manner. The CBA is expected to support the successful completion of the PBC PO. Costs associated with CBA are the responsibility of the Applicant/ATC and should not be included in estimates of total cost.

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MILESTONE GUIDANCE

Milestones represent cleanup completion points and require submission of a report documenting that a particular milestone has been achieved. There can be up to ten (10) milestones. A single milestone may consist of a number of activities. The Department will negotiate milestones, milestone payments, and milestone due days with the ATC prior to finalizing the PBC Scope of Work (SOW). Common PBC Milestones differ from traditional line-item task completions, for example.

- % Reduction in Petroleum Contamination from Baseline.
 - Per the PO Terms and Conditions, % reductions utilize petroleum concentrations in key wells.
 - These reductions may occur while a site is undergoing System Operation and Management (O&M), Post Active Remediation (PARM) or Natural Attenuation Monitoring (NAM).
- Achieving Cleanup (Alternate) Cleanup Target Levels (CTLs).
 - Agreed upon CTLs must be achieved for all Petroleum Contaminates of Concern (COCs) and Media (soil, groundwater, surface water) including all wells and areas/wells of historic exceedances.
- Maintaining CTLs for 12 months.
 - Requires demonstrating all COCs in all media remain below CTLs in the final two (2) samplings.

Typical milestones associated with Air Sparge/Sol Vapor Extraction (AS/SVE) following system construction and hookup through Risk Based Management Option I:

Milestone 1: Submit HASP

Milestone 2: Prepare and Submit a PBC Remedial Action Plan (RAP) or Remedial Action Plan Modification. Conduct baseline sampling as needed for RAP or RAPM

Milestone 3: Complete Remedial System Construction (RAC)

Milestone 4: Complete Startup

Milestone 4: Achieve a 25% reduction from baseline contaminant concentrations (in key wells)

Milestone 5: Achieve a 50% reduction from baseline contaminant concentrations (in key wells)

Milestone 6: Achieve 75% reduction from baseline contaminant concentrations (in key wells)

Milestone 7: Achieve 90% reduction from baseline contaminant concentrations (in key wells)

Milestone 8: Achieve Cleanup Target Levels All COCs and All Media (all wells)

Milestone 9: : Maintain Cleanup Target Levels for 12 months (with last 2 samplings below CTLs)

Milestone 10: Complete Well Abandonment

Typical Milestones associated with a Source Removal:

Milestone 1: Submit HASP

Milestone 2: Prepare and Submit a PBC Remedial Action Plan (RAP) or Remedial Action Plan Modification. Conduct baseline sampling as needed for RAP or RAPM

Milestone 3: Complete Source Removal

Remediation work may go on hold as developer completes portions of the development.

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Milestone 4: Install Replacement Wells and Achieve a 25% reduction from baseline
contaminant concentrations (in key wells)

Milestone 5: Achieve a 50% reduction from baseline contaminant concentrations (in key wells)

Milestone 6: Achieve Cleanup Target Levels All COCs and All Media (all wells)

Milestone 7: Maintain Cleanup Target Levels for 12 months (with last 2 samplings below CTLs)

Milestone 8: Abandon Wells

Note, Milestones are not reimbursable and no markup accompanies milestone payments.

PERIOD OF SERVICE – LENGTH OF AN ACR AGREEMENT AND ACR PBC PO

An ACR Agreement may be for any length of time but may NOT exceed five (5) years. An extension of individual milestone due dates may be requested (following discussion with the DEP/LP site manager) by submitting a Request for Change form. PO end date may not exceed the ACR Agreement expiration date. The Department, at its discretion, may amend the original ACR Agreement expiration date up to the length of time of the original agreement.

ACR Agreement begins on the date the Department executes the agreement. Note, ACR PBC PO funding is encumbered completely on the PO Start date.