

The Role of Environmental Insurance in Accelerating Site Closure

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6/16/2004



Environmental insurance can facilitate the closure of contaminated sites by:

- Aligning the economic interests of stake holders.
- Minimizing contingency charges in bids.
- Encouraging contractor competition.
- Enabling fixed cost budgeting.
- Encouraging innovation in clean ups.
- Reduce the stigma effect of brownfields.
- **Accelerating site closure.**

Without environmental insurance for fixed price bids;

- The contingency charges in bids would make fixed price bids unaffordable.
- There would be fewer bidders.
- The risk of remediation innovation for the contractor and owner is too great.

Therefore, sites often times laid idle for years and remediation budgets never decreased.

Without fixed price remediation contracts;

- The personal take home pay maximizer for everyone involved with a contaminated site is to study it,,forever.
- In the study mode, Cost Plus Contracting inherently rewards slow progress toward site closeout.
- Insurance enables fixed price remediations.

Fixed Price Remediation with Insurance (FPRI)

- Requires a package of specialty insurance policies
 - Cost Cap Insurance/Stop Loss
 - Pollution Legal Liability / Environmental Impairment Liability or;
 - Contractors Pollution Liability Insurance
 - Finite Risk Insurance may also be added to the package

Remediation Cost Cap Insurance

- Insures the cost of completing a specific remediation work plan if it exceeds the bid price plus the self insured retention.
- This policy addresses overrun costs from conditions at the site while implementing the work plan.
- This insurance replaces the need for performance bonds and is non-recourse back to the contractor.
- As opposed to bonds, this is true risk transfer.

Pollution Legal Liability Insurance

- Covers costs from unknown or unexpected pollution conditions at the insured site
- Covers Bodily Injury, Property Damage, Cleanup, and Defense
- Coverage may be broadened to include non-owned disposal sites, Bodily Injury to on-site visitors (not employees or contractors) on site cleanup, transportation exposure and many other areas of loss exposure.
- Coverage can be transferred to new owners with the approval of the underwriters!

Contractors Pollution Liability Insurance

- Coverage for sudden and gradual pollution arising out of the scheduled operations of the contractor.
- Insures unexpected liabilities from the contractors work.
- Covers Bodily Injury, Property Damage, Cleanup and Defense.
- Coverage may be broadened to include a non-owned disposal site at which the contractor disposes of waste.

Package policies

- These policies are usually not specified in the RFP but provide very good insurance coverage.
- Package policies combine prefunded remediation costs (Finite Risk) + Cost Cap Insurance + Environmental Liability Insurance
- In essence the insurance company becomes the escrow agent for the government for the clean up funds, plus the insurer of over runs and liability.
- All costs under the contract are paid as “claims” under the insurance policy.

How much does this insurance cost

- Cost Cap is 7% to 12% of contract cost
- Environmental insurance is about 1% of contract cost
- Premiums go down as deductibles go up
- A prefunded package policy will cost;
The present value of the remediation costs +
Cost of Cost Cap insurance +
Cost of Environmental Liability Insurance

How to get the best insurance value

- Cost Cap policy
 - Since the government pays the bid price plus the insurance premium, the only thing the contractor pays is the deductible.
 - The incentive for the contractor is to minimize the deductible – off loading risk onto the government.
 - The best buy for the government is a larger deductible, all other factors being equal.
 - Watch out for where the policy goes if the contractor defaults on the job. The policy equity needs to revert back to the government to avoid having to buy a new policy.
 - Make sure the policy covers the entire scope of work.

Getting the best value of environmental liability insurance

- Make sure the policy also insures the potential liability of the government from the remediation.
- Many coverage enhancements are available and do not cost more \$\$\$\$, just ask!
- There are hundreds of non standardized coverage's in environmental insurance, special expertise is required.
- This policy can be the “Environmental Warranty” on the project at closure. Facilitating transfer.

FPRI in practice

- Expect wide variations in insurance costs.
- In one procurement, the insurances of one bidder cost \$15,000,000 and another bid, on the same job, was \$1,300,000, from the same insurance company!
- Huge differentials in premium are usually caused by the structure of the insurance programs, not dramatic differences in risk or even the true cost of the insurance.
- The only way to decipher this apparent risk discrepancy is through working knowledge of the insurance market.

Get Expert Help

- Fewer than 50 people in the U.S. have hands on experience in the procurement FPRI insurance.
- The FAR Regulations are devoid of advice on these insurance procurements.
- The Far Regulations do provide extensive advice on organizational conflicts of interest.
- Organizational Conflict of Interest is very likely when there are only 50 people working on the insurance placements.

With insurance costs varying by a factor of 10, and no advice in the FAR or hands on working knowledge internally, outside environmental insurance experts will need to be made part of the procurement team.

Evaluating Experts in Insurance

Licensed Agent/Broker	Certified Insurance Counselor	Chartered Property and Casualty Underwriter	Associate in Risk Management
40 hours class room (Maybe none in some states)	Five parts/ 10 days of class room	10 college level courses	3 Graduate level courses
About 100 multiple choice questions Takes about 1 hour	10 hours of essay Exams	30 hours essay	9 hours essay
10 hours CE	20 hours CE annually	None, but encouraged	None
No mention of environmental Insurance anywhere in the study material	One 4 hr CE course offered on environmental insurance	One chapter on environmental risk management and Insurance	One chapter on environmental risk management and Insurance

Without academic sources of qualifications, what to look for;

1. Working knowledge of the environmental insurance market, including pricing and coverage forms.
2. Knowledge of insurance contracts.
3. Knowledge of environmental risk management .
4. Knowledge of corporate finance.
5. Communication skills.

With nothing written on the subject, it is almost impossible to conduct research without a working knowledge of the insurance market.

Where to find help

- Members of the Environmental Risk Resources Association www.erraonline.org
- Members of the Society of Risk Management Consultants www.srmcsociety.org
- Insurance consulting firms
- Insurance Brokers/Underwriters (A great source of expertise but carefully evaluate COI or risk spending a lot of time with inspector general employees, surrounded by ample amounts of unpleasantness)

CONCLUSION

- **Environmental insurance can be a powerful tool in accelerating site closures.**
- **It requires specialist knowledge to fit the insurances together, evaluate them on an equalized basis and maximize their value.**
- **Thank you for listening!**