



Managing Costs

Key Concepts to Managing Costs in an Environmental Pollution Event

Ross Gagliano, SVP ERMS, Global Risk Solutions, Inc.

When a catastrophic environmental incident occurs, according to the Oil Pollution Act (OPA) the identified Responsible Party (aka the “spiller”) must immediately step forward and deal with (in conjunction with the Unified Command) containing the source of the pollution, the cleanup of the contamination, assessment and restoration of natural resource damages, and compensation of those third-party claimants who were impacted by the event, as well as potential legal costs and fines.

The response can be literally like starting a multi-million dollar company from scratch overnight. You have to go from zero personnel to hundreds if not thousands of personnel called-out from subcontracted companies with unknown pay rates, hiring large amounts of rented equipment and mobilization costs that are initially unknown – AND you have to provide facilities, lodging and meals for all. All this for a “company” that you never wanted to have to start in the first place!

KEY COMPONENTS OF COST CONTROL

Any time an environmental pollution incident occurs it becomes an immediate loss situation. Implementation of financial controls to monitor expenses and project costs in coordination with all related claims and potential liabilities is a critical element for your bottom line. The consequent objective is to minimize the loss and to mitigate the liability. The following are components and requirements of effective Cost Control response management to address the essentials of controlling costs in spill response.

Operations Cooperation

Cleanup operations must push the contractors to submit daily cost estimates so there are no major surprises on what is being billed. This requires coordination and communication as well as common objectives. There should be a field verification component to the operation be it an Operations Zone Manager or an assigned Finance Team Cost monitor, just be sure there is someone tasked with collecting the Contractor Daily Reports to verify that all items being billed are consistent with what resources have been assigned. In other words, the activated resources should be consistent with the immediate risk assessment and potential liability. It is best to address these issues while the cleanup operations are still going on because it is harder to dispute these items after the fact. The Cleanup operations team must be in coordination with the finance team in this process.

Obtain Response Contractors Latest Contracts and Rate Schedules

In order to get an accurate estimate of Cleanup Costs, you will need to know the agreed rates that the Responsible Party has agreed to pay per the latest approved Contact or Rate Schedule. Often if you receive a Contractor daily it may or may not have the rates included. The Daily provided by the contractor might be just a list of what the contractor are billing for that day without rates. The Rate Schedules will also help identify high ticket items so the finance team can verify if those items are being used and if they can work to get those items off the clock as soon as possible. Knowing the rates being billed are indeed the correct rates can help zero in on the Response Cost Estimate or "Burn Rate."

Purchase Orders Alone do not Provide Daily Estimated Costs

While Purchase orders are part of the equation to get a handle on response costs, they do not provide a full picture of the Costs being spent on a response. When specialty resources are needed often the purchase order process gets circumvented and there may be a large number of high ticket items whose costs are not being tracked. This goes back to the need for Operations to get Contractors Daily Reports everyday along with field a verification process. These items are vital to the Cost Control process.

When the Emergency Response Phase is over, Renegotiate with Response Contractors to Reduce Their Rates

Most of the Contractors, especially the Emergency Response Contractors, have Emergency Response Rates and non-Emergency Response Rates. The difference is usually substantial so the sooner you can get the contractor to agree to switch to the lower rate the better. In the case of longer-term projects, it is wise to renegotiate the rate or bring in other contractors who can do similar work for a lesser rate. In the case of remediation work, it may be best to bid the work as a lump sum bid.

Use Personnel from the Response to Review Invoices

It is good idea to use personnel who worked on the project, such as a field monitor or Zone Manager, to look over or perform the actual invoice of the Contractor Invoices. Chance are they can tell just looking at the Invoice if something seems wrong with the Invoices. Someone without knowledge of the project would probably have a harder time understanding the invoice and identifying inconsistencies.

CLAIMS ASSESSMENT EXPOSURE REPORT (CAER)

In order to get a clear picture of the Potential Liability exposure outside of the Cleanup Operations, it is vital to conduct a 48-hour assessment of Potential Third-Party Claims Exposure. A team of Claims experts will canvass the impacted area and will address Property Damage (offsite if it occurred at a Facility), Health Issue Claims, Evacuations, Loss of Use and Business Interruption. Necessary steps forward would then be determined such as setting up a claims office and pertinent claims programs based on what the Claims Assessment Exposure Report determines.

In our next series on pollution incident claims, we will take a deeper dive into the benefits of Cost Control. At first, the only tangible benefit that cost control provides may seem to be saving money. But, there are additional notable benefits if it's properly implemented.

For more information, please refer to www.globalrisksolutions.com.