



Superfund Response Action Contracts

Office of Emergency and Remedial Response
Hazardous Site Control Division, 5203G

Quick Reference Fact Sheet

The Response Action Contracts (RACs) provide professional architect/engineer services to the U.S. Environmental Protection Agency (EPA) to support response planning and oversight of activities under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). These contracts are being procured as the Regions deplete the capacity of their existing Alternative Remedial Contracting Strategy (ARCS) contracts. The purpose of this fact sheet is to provide general information about the RACs.

SERVICES PROVIDED

Services provided by RACs include:

- program support (management);
- remedial investigation and feasibility studies;
- engineering services to design remedial actions;
- engineering evaluations and cost analyses for non-time-critical removal actions;
- construction management for implementing remedial actions and non-time-critical removal actions, including issuing and managing subcontracts for construction of the selected remedy, and engineering services for construction oversight;
- enforcement support, including oversight of remedial investigations/feasibility studies, remedial designs, and remedial actions, and negotiation support; and
- other technical assistance, including community relations, sampling and analytical support, and pre-design investigations.

Services also may include technical and management services supporting EPA's coordination and/or oversight of remedial activities performed by a State, the U.S. Army Corps of Engineers, or responsible parties identified in enforcement actions. RAC services do not include Federal facilities oversight.

SUPERFUND'S LONG-TERM CONTRACTING STRATEGY

The procurement of RACs implements the long-term cleanup contracting component of the EPA's Long-Term Contracting Strategy (OSWER Directive 9242.6-07FS). This strategy prescribes an integrated "one-program" approach to enforcement and site cleanup and decentralizes contract management to the EPA Regions to enhance program flexibility and improve contract oversight and cost management. The RACs supplement and eventually will replace the ARCS contracts. The RACs also integrate enforcement oversight and non-time critical removal activities previously performed under the EPA's Technical Enforcement Support and Emergency Response Cleanup Services contracts, respectively. The Agency expects to reduce handoffs, promote program integration, and give the Regions flexibility to pursue various enforcement options through this one-program approach.

CONTRACT TYPE AND STRUCTURE

RACs are cost-plus-award-fee contracts. The base period of performance is five years, with one five-year option period that can be exercised at the discretion of the government, for a potential contract period of ten years. The RAC statement of work specifies work areas and tasks within two general categories of activities: Program Support and Site-Specific Activities. The Regions issue work assignments to order work under RACs.

STATEMENT OF WORK

The RAC statement of work is a nationally standardized statement of work developed by the Response Action Contracting Strategy Work Group for use in all Regions. The statement of work is presented in a work breakdown structure format. The work breakdown structure is comprised of work areas, tasks, and subtasks. Separate work assignments are issued for each work area. Tasks and potential subtask activities for each work area are identified and described in the statement of work. Subtasks are specified by the Region in individual work assignments as they are issued.

Work areas are organized into four categories:

- Program Support
- Site-Specific Fund-Lead
- Site-Specific Enforcement Support
- Other Site-Specific Technical Assistance

RAC contractors use the work breakdown structure in the statement of work for project scoping, scheduling, and technical and cost tracking and reporting. Contractors are required to track and report activities and costs to the task level and, if specified in individual work assignments, to the subtask level.

PROGRAM SUPPORT (MANAGEMENT)

The program support (management) component of RACs includes five work areas:

- Mobilization
- Equipment (Non-Site-Specific)
- Ongoing Administrative Support
- Ongoing Technical Support
- Contract Closeout

The Regions will issue and negotiate separate work assignments for these activities. Mobilization and contract closeout are one-time activities; other program support activities will be ongoing over the period of the contract. The work assignment for mobilization and initial work assignment for non-site-specific equipment are negotiated during contract negotiations before award.* Ongoing administrative and technical support work assignments are negotiated during mobilization. These work assignments may extend for the base period of the contract or may be issued for a shorter period. The contract closeout work assignment is issued six to eight months before the end of the contract period. This approach provides the Regions the flexibility to monitor and control the program support costs associated with RACs and complies with the Agency's goal to minimize and break out program support costs in RACs.

TERM-FORM AND COMPLETION-FORM WORK ASSIGNMENTS

The *Federal Acquisition Regulation* describes two forms of cost-reimbursement contracts—term-form and completion-form. RACs contain both term-form and completion-form segments, and term-form or completion-form work assignments may be issued at EPA's discretion.

A term-form work assignment obligates the contractor to devote a specified level of effort for a stated time period toward achieving a defined objective. The statement of work is described in general terms and the contractor provides the specified number of hours on a "best effort" basis during an agreed-upon time period. Under a term-form work assignment, the contractor is obligated to deliver quality labor hours toward a defined objective.

After the issuance of a term-form work assignment, EPA negotiates with the contractor an estimated work assignment cost and fee pool (calculated according to the number of direct labor hours to be expended). Performance (award) fee is paid based on a subjective government evaluation of contractor performance. If the contractor cannot perform the work within the estimated hours, the government may choose to add hours to the work assignment. Additional fee would be associated with those hours.

A completion-form work assignment obligates the contractor to complete and deliver a specified end product (such as a technical report) within the estimated cost of the work assignment as a condition for fee payment. If the contractor cannot complete the product within the estimated cost, the government may elect to provide the contractor with additional funds to complete the work while the fee remains as originally negotiated. The completion-form approach, therefore, gives the contractor an incentive to complete the work assignment within the estimated cost.

Completion-form work assignments are negotiated and established using the same process as term-form work assignments, except fee is negotiated based on estimated cost rather than labor hours. As with term-form work assignments, if the contractor cannot complete the work assignment within the estimated cost, the government may provide additional funds for completion; unlike term-form work assignments, additional fee usually is not provided. For both term- and completion-form work assignments, if the work assignment scope of work changes during the period of performance, the contractor can claim a "change," which the government may or may not negotiate to include a change in the fee.

* Last-minute changes in EPA policy may affect treatment of equipment in RACs.

RACs contain a base quantity for the term-form (level of effort) segment of the contract and dollar ceilings for the completion-form segment of the contract. The Regions determine the distribution of work between the two segments for their contracts. When the base quantity and/or dollar ceiling is exhausted, the Region can modify the contract to increase contract quantities or dollars through exercising contract options. Term-form contract increases raise the number of hours in the contract. Completion-form increases raise the completion-form dollar ceiling.

PERFORMANCE (AWARD) FEE PLAN

The Performance (Award) Fee Plan for RACs establishes the procedures and processes for administering the fee provisions of the contract. The RACs Performance (Award) Fee Plan includes base and performance (award) fee provisions. Base fee is paid provisionally during the life of a work assignment. If final work assignment performance is rated as "satisfactory" or better, the contractor retains all of the base fee associated with that work assignment. If final work assignment performance is rated as "unsatisfactory," the contractor must return to the government the entire base fee associated with the work assignment. Performance (award) fee is paid only for completed work assignments for which the government evaluates contractor performance as "exceeds expectations" or "outstanding." Government evaluations are unilateral and not subject to contractor dispute.

The RAC Performance (Award) Fee Plan motivates contractors to exceed Regional expectations by providing performance (award) fee for better-than-satisfactory performance and discourages less-than-satisfactory performance through a total loss of fee.

REPORTS

RACs contain nationally standardized reporting and invoicing requirements that allow data to be compared across contracts and enhance EPA's oversight capabilities. Both hard copy and electronic reports are required. The contractor is required to (1) report and invoice on the same calendar period, (2) calculate data elements used in reports and invoices by the same methods, and (3) submit progress reports concurrently with invoices. These requirements ensure that the government has adequate information for timely review and approval of invoices. Progress reports, which allow effective monitoring of work progress, and national reports, which update EPA Headquarters on contract status, facilitate contract management and cost control.

CONTRACT FUNDING

Most RAC funding is bulk funding, which means that the contract as a whole is funded periodically, according to the funding categories, as opposed to traditional, individual work assignment funding. The bulk-funding categories in RACs are defined as non-site-specific funding areas in OSWER Publication 9200.3-14.2, Program Management Manual. The four bulk-funding categories are:

- Program Support (Other Response)
- Site Characterization (non-site-specific "site" allowance)
- Removal
- Enforcement

In bulk funding, obligations are not site-specific but expenditures are. Bulk funds are committed and obligated to the contract using the funding category, a generic activity code, and a generic site code. The contractor invoices site-specifically, replacing the generic activity code and site code with the applicable activity code and site code specified in the work assignment.

To manage expenditures under individual work assignments, the government establishes an "expenditure limit" for each work assignment issued. The expenditure limit is expressed in hours and dollars for term-form work assignments and in dollars for completion-form work assignments. The contractor can expend work assignment hours and/or dollars up to the work assignment expenditure limit but cannot exceed the expenditure limit. Within the bulk-funding approach, the expenditure limit serves as the work assignment funding ceiling and ensures that the government controls individual work assignment expenditures.

Some types of work assignments will not be bulk funded. Remedial action work assignments and completion-form work assignments will be funded individually on a site-specific basis.

FOR FURTHER INFORMATION CALL:

Nancy Ortowski (5203G)
Design and Construction Management Branch
Office of Emergency and Remedial Response
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460
(703) 603-8785

United States
Environmental Protection
Agency
Washington, DC 20460
Official Business
Penalty for Private Use
\$300