

How to Select an Environmental Consultant



Introduction

In response to the numerous requests for information on selecting an environmental consultant, the DEQ designed this guide to provide the basic questions to ask, issues to be identified and approaches to take as you seek the expertise of environmental consultants. Like any guide, it is intended to help you identify the major areas of which you should be aware. Ultimately, you the business are responsible for your environmental compliance. For your convenience, an appendix with a list of Oklahoma state agencies is included to help you identify the authority you may need to contact.

The Department of Environmental Quality stands ready to help you identify what action you may need to take to stay in regulatory compliance. The Customer Assistance Program is available to help answer your regulatory questions, guide you through the permitting process, and to help you incorporate pollution prevention and other waste reduction measures that will reduce your business's impact on the environment.

We hope this information will help you as you begin your search for the wide variety of quality

mental consultants that are available to assist you. You may wish to identify a consultant before a specific problem arises. We look forward to working with you to preserve our environment and promote economic growth in our state. You may contact DEQ Customer Assistance at: P.O. Box 1677 (405) 702-1000 (or) 1-800-869-1400.



Special thanks to the Illinois Department of Commerce & Community Affairs, Illinois Environmental Protection Agency and Illinois Department of Energy and Natural Resources for permission to use their concepts to produce a similar document.

Role of the Environmental Consultant

You may be aware that environmental requirements are applicable to your company or that some environmental problem already exists. Where do you turn for help?

1 **First**, take environmental matters seriously. In recent years the financial and legal consequences of environmental problems have expanded dramatically.

2 **Second**, recognize that you may need both technical and legal assistance. As the environmental requirements have expanded and become more detailed, consultants and attorneys have become specialized to address them. In these areas you often need to go beyond general practitioners.

3 **Third**, carefully define the issue. This will require an environmental professional who not only specializes in the environmental area, but also has a broad understanding of both the technical issues and regulatory process.

4 **Fourth**, you may need specialized environmental services. They might include:

- Air/water/soil testing
- Detailed design and construction services
- Laboratory
- Legal
- Professional engineering

For example, the construction contractor may do the actual hands-on work, such as hazardous waste clean-ups or tank removal. However, the sampling at a UST removal site has to be observed and performed by a certified UST consultant.

The nature of the environmental project dictates the academic training, qualifications and credentials required of the provider of the services. A summary of various types of environmental professionals and of recommended or required credentials and Oklahoma regulating agencies is provided in Appendix A.

The Team Approach

A “team” approach is essential to the successful completion of any environmental project. This team could consist of you, your environmental consultant, subcontractors such as construction contractors, and environmental legal counsel. For your project team to be effective, however, it is imperative that the environmental professionals you consider hiring are appropriate for both you and the task at hand.

successful “team”
approach



Selection Methods of the Environmental Consultant and Legal Counsel

Environmental Professionals and Environmental Engineers

An environmental consultant will oversee your environmental project and help ensure that it is completed in a manner which will not only satisfy you but also meet all applicable state and federal regulations.

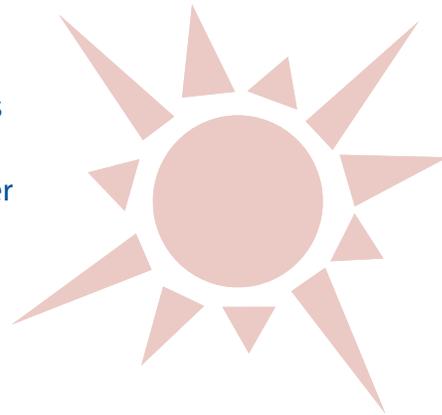
Your environmental consultant will also be responsible for developing a project plan and hiring or assisting in hiring any subcontractors, which may be needed. Contacting your lender early in the search process will ensure that your efforts are coordinated with your source of financing.

Suggested steps to follow in selecting an environmental consultant:

- 1) You or your business defines a project (e.g. hazardous waste removal, storage tank clean-up, asbestos abatement)
- 2) Determine the role of the consultant (e.g. assessment, survey, plan, design, construction oversight)
- 3) Contact firms by advertisement or public notice, (e.g. lists in yellow pages, engineering associations), request statements of qualifications
- 4) Short list up to six firms based upon review of qualifications and request proposals from these firms (you may want firms to visit site)
- 5) Interview firms following review of proposals
- 6) Rank the top three firms in order of preference
- 7) Develop Scope of Work and negotiate fee with top ranked firm only
- 8) If agreement reached, finalize contract
- 9) If no agreement, drop number one firm and begin negotiations with second ranked firm and so on until agreement is reached.

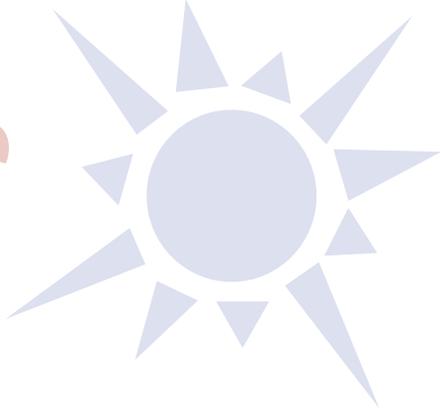
Things to consider in evaluating a registered professional engineer or an environmental consultant:

- Licenses, registrations, certifications
- References
- Professional reputation
- Experience in dealing with your particular problem
- Experience in dealing with relevant environmental agency(ies)
- Successful completion of similar projects
- Ability to meet or exceed schedule
- Ability to communicate
- Approach to project
- Financial stability
- Quality control/quality assurance procedures
- Creativity
- Identity and qualifications of project manager
- Subconsultants
- Professional awards
- Insurance/amount and type
- Location of firm
- Professional association activities



...a list of steps
to follow

things to consider...



Attorney Selection

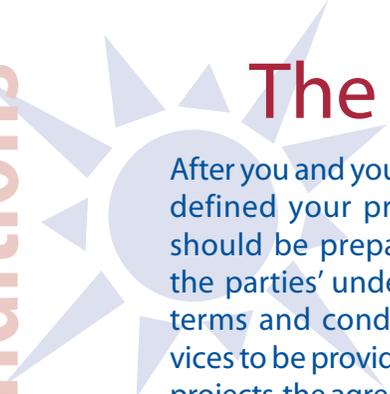
You may consider hiring an attorney familiar with the particular environmental laws and regulations affecting your project. Given the complexity of environmental laws today, it is wise to retain the services of an attorney who concentrates his or her practice in the environmental field. Other resources for finding an environmental attorney

include: referral from your current legal counsel, or the Directory of Environmental Attorneys published annually by Prentice Hall Law & Business. Your current attorney may also wish to contact the Environmental Law Section of the Oklahoma Bar Association for a list of attorneys that practice in the environmental area.

Capability to provide the legal

Criteria to Consider When Selecting Environmental Counsel:

- Support and resources required to successfully complete your project.
 - Experience in handling your particular problem/project
- Experience dealing with governmental agencies on the local, state and federal level
- Familiarity with the regulations and regulatory agencies that govern your problem/project
- Professional reputation of the attorney
- Experience with and ability to work with the other consultants retained for the project
- Experience with similar problems/projects
- Potential conflicts of interest.



The Contract

After you and your consultant have defined your project, a contract should be prepared that reflects the parties' understanding of the terms and conditions of the services to be provided. For small scale projects, the agreement may simply consist of a letter referencing an attached Scope of Work and the consultant's general contract terms, conditions and time to complete the project or it may consist of a purchase order with an attached Scope of Work. For more complex projects, the agreement may be several pages long and provide for a number of contingencies that may arise. Regardless of the form, you should be sure that the following provisions are considered:

Scope of Work

Defines the work that you and the consultant have agreed upon and should be as detailed as possible including a schedule for task completion. Sometimes contracts include a general description of the Scope of Work and reference an attached Scope of Work or set of drawings and specifications that provide the details of the work. For cases where you cannot precisely define the Scope of Work, provide as much detail as is known about the project and a description of the consultant's project approach. The contract should provide a mechanism for owner participation in modifying the Scope of Work, such as a change order, during the project.

applicable laws and regulations

Compliance with Applicable laws

The consultant and all contractors should perform their services in accordance with all applicable laws and regulations to ensure that work required by law, but not specifically identified in the Scope of Work, is included.

Confidentiality

To prevent the unauthorized disclosure of the information given to the consultant or information generated by the consultant, include a confidentiality provision in the professional services agreement.

Cost and Payment Terms

The cost and payment terms, together with the Scope of Work, de-

scribe the essence of the bargain between you and the consultant. The cost provision should clearly spell out the amount the consultant will be paid.

The cost provision should clearly state on what basis and how the consultant is being paid. Payment may be done in lump sum or progressive payments made over the term of the contract. The contract should define project completion. Termination provisions also should be included stating under what circumstances the contract can be terminated. *Continued on next page...*



provided coverage

Insurance

Consultants should be able to provide comprehensive liability, professional liability (also known as “errors and omissions”), comprehensive automobile liability, and workers’ compensation and

employer liability insurance. In addition, consultants and contractors who specialize in hazardous waste or asbestos can often provide insurance coverage against certain environmental liabilities.

Limits on Liability

Consultants

The ways in which consultants may limit their liability include the following:

- To the amount of the contract fee (meaning profit, not total dollars to be paid by you under the contract).
- To the amount paid to the consultant (not limited to profit).
- To amounts that will be covered by the insurance the consultant agrees to carry as listed in the agreement.
- To a fixed dollar amount.

Limitations on liability should be carefully reviewed. Although some consultants may not be willing to perform the work without some limitation on liability, you should carefully consider limitations in the agreement.

limitations



...making an agreement



Your Limitations

In addition to requiring insurance in sufficient limits you can attempt to limit your liability by insisting that the consultant indemnify you for the consultant's activities.

Many contracts also provide owner indemnification of the consultant under certain situations.

For additional contract information, see the "Standard Form

of Agreement Between Owner and Engineer for Professional Services" prepared by the National Society of Professional Engineers, American Consulting Engineers Council, and American Society of Civil Engineers. For more information, contact the Board of Registration of Professional Engineers and Land Surveyors, 201 NE 27th, Oklahoma City, Oklahoma 73105. The phone number is (405) 521-2874.

It is advisable to have an attorney review the contract.

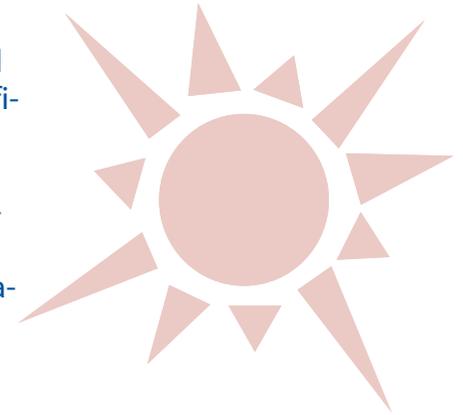
Environmental Issues and Lenders

You are contemplating the purchase of a new business location. You wish to expand your facility. You want to borrow money for business purposes. You have just discovered that an environmental problem exists and you will need to borrow funds to handle it. In all of these situations it is important to initiate discussions with your lender as soon as possible.

Lenders will have their own requirements regarding environmental issues. Contacting the lender early may save money by incorporating those requirements into your plans before work has commenced. Some lenders have an approved list of

consultants that they use. Using a consultant that is acceptable to the lender may also save the cost of having your consultant's report reviewed by a consultant acceptable to the lender.

Even if you do not borrow additional money, you may need to inform your lender of environmental concerns. Most loan documents have environmental clauses that require lender notification upon discovery of an environmental situation. Even if not required by your loan documents, you may wish to do so in the interest of open communication with your lender.



Appendix A

Regulating Agencies and Recommended Credentials for Performing Certain Environmental Work

Please contact the appropriate State or Federal Agency for additional information about the requirements needed for specific certifications or licenses*

Agency	Environmental Need	Suggested Credentials
Department of Environmental Quality		
I.	Air Quality Division (405) 702-4100 Air (Includes Stack Testing, Oversight, Emissions, Permitting), etc.	Registered Professional Engineer, Environmental Professional
II.	Water Quality Division (405) 702-8100 Water, Wastewater, Stormwater, Industrial Discharges, Permitting, etc.	Registered Professional Engineer, Environmental Professional
III.	Land Protection Division (405) 702-5100 Site Assessments & Remediations Asbestos Disposal, Underground Injection Control (UIC); Hazardous, Solid, & Radioactive Waste, Superfund Permitting, etc.	Registered Professional Engineer or Environmental Professional, Occupational Safety and Health Administration (OSHA) trained

Continued...

Agency	Environmental Need	Suggested Credential
IV. Environmental Complaints and Local Services Division (405)702-6100	Percolation Tests, Private Sewage systems, Small Public Sewage systems	Registered Professional Engineer, Registered Land Surveyor, Certified Soil Profiler, or Registered Sanitarian
V. Customer Services Division (405) 702-1000	Environmental functions, Lab Certification, Pollution Prevention Sample Analysis, SARA Title III, and Risk Communication	Registered Professional Engineer, Environmental Professional, or Certified Laboratory
Oklahoma Water Resources Board (405) 630-8800	Water Rights, Water and Wastewater Loans & Grants, Well Drilling, etc.	Registered Professional Engineer, Environmental Professional, Licensed Well Driller
Oklahoma Corporation Commission (405) 521-2211	Oil & Gas Drilling and Exploration, Underground Storage Tank Management, Transportation	Registered Professional Engineer, Environmental Professional or Certified UST Consultant

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Regulating Agencies and Recommended Credentials for Performing Certain Environmental Work. Please contact the appropriate State or Federal Agency for additional information about the requirements needed for specific certifications or licenses.*

Agency/Environmental Need	Suggested Credentials
State Department of Agriculture (405) 521-3864 Agriculture Services, Crop Production, etc.	Registered Professional Engineer, Certified Applicator, etc.
Oklahoma Department of Mines (405) 521-2384 Mine Regulation & Reclamation (active mine)	Registered Professional Engineer or Environmental Professional
Oklahoma Conservation Commission (405) 521-2384 Soil conservation, Wetlands, Abandoned Mine Reclamation, etc.	Registered Professional Engineer or Environmental Professional
Department of Wildlife Conservation (405) 521-3851 Wildlife Protection, Kills and Wildlife Damage Claims	Registered Professional Engineer or Environmental Professional
Department of Public Safety (405) 528-1500 Vehicle Inspection for Air Quality & hazardous Materials Transportation Act	Registered professional Engineer or Environmental Professional

Continued...

Agency/Environmental Need

Suggested Credentials

Department of Labor (405) 528-1500

Indoor Air Quality, Asbestos in
Workplace and Monitoring

Registered Professional Engineer or
Environmental Professional

Department of Civil Emergency Management (405) 521-2481

SARA Title III-Hazardous
Materials Training for State
and Local Emergency Planners,
Hazardous Materials Locations, etc.

Registered Professional Engineer or
Environmental Professional

*The Oklahoma Environmental Quality Act, which deals with environmental agencies and regulations, was written as Oklahoma Statute s Title 27A. Registered, certified, or licensed professionals may be required for specific environmental work.



O K L A H O M A
DEPARTMENT OF ENVIRONMENTAL QUALITY

...for a clean, attractive, prosperous Oklahoma

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