nyrej

How much should you pay for a phase one Environmental Site Assessment (ESA)? - by Chuck Mettitt

February 29, 2016 - Long Island (https://nyrej.com/section/LI)

(https://nyrej.com/img/wordpress/2015/03/Merritt-Chuck-MerrittEng.jpg) Chuck Merritt, Merritt Environmental Consulting Corp.

This is one of the most challenging questions in the world of environmental due diligence as there has always been a wide range of pricing for the phase one report. Every industry has its outliers of low and high priced providers, yet this quandary has plagued the phase one industry since day one. Day one really starts in 1994 when the first American Society of Testing Materials (ASTM) released its first standard for phase one reports. Prefaced as a voluntary standard, it attempted to set parameters for all consultants to provide apples to apples approach for reporting environmental concerns to their clients. Since it was "voluntary," some read the standard and tried to provide the most comprehensive report and priced it accordingly. This was typically based on how many hours it would take to complete the task and the hourly rate of the professional working on the assignment. Others merely skimmed the standard and chose the parts that were the easiest and least expensive to comply with. The first standard also used phrases such as "obvious signs of contamination" providing a lot of leeway of what was reported beyond that. As the early standard also had no requirements of who should conduct the inspection or prepare the report, there was a low barrier of entry into the field. The ASTM standard of 2000, affectionately known as the millennium standard was the first time qualifications of who should be doing this work were published.

One of the original drivers of phase one reports was the lending institutions. Purchasers were either not aware or not interested in paying for a phase one so they let their bank order it. When a lending institution orders many of these reports over a year from a select group of approved vendors, the pricing can drop dramatically as it would in any industry. A practice that remains today, as lenders are concerned about the potential environmental concerns of the real estate they are lending on. Most lenders today have an environmental risk policy that outlines when phase one reports are required. Lenders are also better at vetting who is on their approved list. Inclusion on the list can be based on experience, quality of report, geographic regions covered, insurance limits carried by the consultant, and of course pricing.

As real estate investors have become more aware of the importance of "knowing" what is at a site they are buying (as well as the adjacent properties), they have become more astute about ordering a phase one report on their behalf. As the client (opposed to a bank being the client), they have a direct relationship with the firm preparing the phase one report. They can negotiate the scope of services provided, timing of the report as well the cost. The ASTM standard has always provided legal protection to the owner of the report with terms such as innocent landowner defense and bona fide purchaser protection, so real estate investors arranging their own reports are afforded this cover. The most recent ASTM standard (E-1527-13) has been described as "clarifying past standards." The committee tried to emphasize the responsibility of the consultant to adhere to all sections of the standard reinforcing the apples to apples playing field and narrowing the wide range of pricing that exists. The most critical element of the new standard is the requirement to report on whether a potential vapor encroachment condition (VEC) exists. According to ASTM, the definition of a VEC is the "presence of likely presence of Chemicals of Concern (COC) vapors in the subsurface of the target property (TP) caused by the release of vapors from contaminated soil or groundwater either on or near the TP." When this occurs harmful vapors can rise into structures and impact the air quality. The most common culprits of this phenomenon are leaking gasoline tanks and dry-cleaning solvents (typically called perc) that have spilled.

Sellers may also order their own phase one on a property as this can help with the marketability when listing the property for sale. In addition, should an environmental concern exist, the seller may elect to start addressing this situation saving time later when a transaction is on the table. A seller will typically order a report that meets the ASTM standard and no more. This may include avoiding a discussion about fill material that may exist at a site. Fill material does not typically need to be addressed unless being disturbed and removed as is the case of new construction. A buyer of the same site may want additional information on this potentially expensive item.

So when asking how much does a phase one report cost, the response should be "what are you looking to accomplish?" There should not be one price fits all pricing in the industry. When working for a lender, a volume discount is usually offered based on the work assigned annually but that is no longer the only factor in establishing pricing. Even from lender to lender the type of report required will impact pricing as does timing required to produce the report and the size of the asset. When asked to prepare a bid for a potential client, it is more important to understand the goals of why the phase one report is being ordered. From there, the consultant can submit what they believe the price should be to accomplish that goal.

Chuck Merritt, LEED AP, is the president of Merritt Environmental Consulting Corp., Hauppauge, N.Y.