

**Audit of Agreement LP10050 with the Town of Penney Farms  
Division of Water Restoration Assistance**

**Report: A-1819DEP-021**

**Office of Inspector General**

**Internal Audit Section**

**Florida Department of Environmental Protection**

**June 24, 2019**

3900 Commonwealth Boulevard, MS 40  
Tallahassee, Florida 32399-3000

<https://floridadep.gov/>





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Division of Water Restoration Assistance



Report: A-1819DEP-021

## Table of Contents

<b>Scope and Objectives .....</b>	<b>1</b>
<b>Methodology .....</b>	<b>1</b>
<b>Background .....</b>	<b>1</b>
<b>Results and Conclusions .....</b>	<b>2</b>
<b>Findings and Recommendations.....</b>	<b>5</b>
<b>Division Response.....</b>	<b>9</b>

Report: A-1819DEP-021

The Office of Inspector General (OIG) conducted an audit of Agreement LP10050 (Agreement) between the Division of Water Restoration Assistance (Division) and the Town of Penney Farms (Town). This audit was initiated as a result of the Fiscal Year (FY) 2018-2019 Annual Audit Plan.

## **Scope and Objectives**

The scope of this audit included activities and financial transactions beginning August 24, 2016. The objectives were to:

- determine whether payments were made for activities and required deliverables in accordance with the Agreement
- evaluate management oversight and control over the Town's performance and compliance under the Agreement

## **Methodology**

This audit was conducted under the authority of Section 20.055, Florida Statutes (F.S.), and in conformance with *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors. Our procedures included a review of statutory and Agreement requirements, Agreement financial records, documentation of activities, and interviews with Division and Town staff.

## **Background**

The Town has a population of 821 and is located in Clay County, Florida. In 2007, the Town completed a Wastewater Master Plan (WMP) in order to identify and prioritize issues related to an old sewer plant serving the Penney Retirement Community part of the Town and to address leaking septic tanks within the rest of the Town. Wastewater improvements to the

Audit of Agreement LP10050 with the Town of Penney Farms  
Division of Water Restoration Assistance

Report: A-1819DEP-021

Penney Retirement Community area were identified as one of the top priorities. A sewer collection project constructed between 2008 and 2009 was able to eliminate most of the septic tanks and the failing sewer plant, but because of limited funds, sections of the terracotta piping had to be connected to the new sewer collection system in a non-improved condition. In 2016, funding of \$328,200.00 was awarded pursuant to line item 1600A of the FY 2016-2017 General Appropriations Act for the Town to upgrade a section of the original wastewater collection system infrastructure in the Penney Farms Retirement Community neighborhood.

The Agreement was executed on August 24, 2016, and included the identification and replacement of old terracotta piping within the system with a new PVC wastewater collection system. The Agreement also included improvements to existing manholes and allowed consideration for pump stations. The Agreement was amended on October 24, 2017, to allow advance payments and revision of task deliverables. Two change orders were approved, extending the completion date to June 30, 2019. According to the Town’s construction contract, the project consisted of constructing approximately 1,200 Linear Feet (LF) of 8” and 10” gravity sewer, seven precast manholes and pump replacement at one of the wastewater pump stations. The Grant Work Plan included the following tasks and budget detail.

Task No.	Task or Deliverable Title	Amount Disbursed as of May 17, 2019	Amount Budgeted
1	Pre-Design Study	\$12,000.00	\$12,000.00
2	Design and Permitting	\$32,000.00	\$32,000.00
3	Bidding and Contractor Selection	\$1,400.00	\$1,400.00
4	Project Management	\$18,800.00	\$20,800.00
5	Construction	\$233,703.81	\$262,000.00
	<b>Total:</b>	<b>\$297,903.81</b>	<b>\$328,200.00</b>

As of May 17, 2019, payments totaling \$297,903.81 were approved for work completed for Tasks 1 through 5.

Report: A-1819DEP-021

## **Results and Conclusions**

### Required Deliverables and Invoiced Activities

In accordance with Amendment 1, advanced payments were allowed with required quarterly progress reports and task deliverables. We reviewed invoice and task deliverable documentation provided by the Division. Based on the required deliverables in the Grant Work Plan, documentation supporting tasked deliverables were consistent with the Grant Work Plan.

According to the Grant Work Plan, *for those tasks in which advanced payment is approved, the reference to “payment” in the Payment Request Schedules shall mean submittal of invoices(s), and the Grantee shall submit invoice documentation with each disbursement request. Proof of payment must be submitted prior to each subsequent disbursement request and no later than sixty (60) calendar days following the final disbursement request.* We verified that task activities were consistent with the budget. Funds received by the Town as part of the project were transferred to the Town’s wastewater/sewer funds and were paid to the Town’s contractor once funding was received, with the exception of one payment not representing the full amount of the subsequent disbursement. This error was addressed by the Grant Manager.

Under Task 5, required deliverables included *1) dated photographs of on-going work representing the time period covered in the payment request; 2) signed acceptance and brief description of the completed work to date by the Grantee; 3) written verification that the Grantee has received record drawings and any required final inspection report(s) for the project (as applicable); and 4) signed statement from a Florida Licensed Professional Engineer indicating construction has been completed in accordance with construction contract documents (as applicable).* According to the Payment Request Schedule, *the deliverables must be submitted and accepted prior to each payment request and may be submitted no more frequently than monthly.*

Report: A-1819DEP-021

Based on documentation provided by the Grant Manager, the final disbursement was approved without written verification that the Town received record drawings, final inspection reports, or a signed statement from a Florida Licensed Professional Engineer indicating construction had been completed in accordance with the construction documents. In addition, the Grant Manager had not received a description of the completed work under Task 5. Subsequently, we obtained the Professional Engineer's certification regarding the completion of construction, and a description of the work completed under Task 5, and the Professional Engineer's record drawings dated March 31, 2019.

#### Agreement Requirements

According to Paragraph 18 of the Agreement, the Town and subcontractors are required to maintain commercial general liability insurance, worker's compensation and employer's liability coverage, and commercial automobile insurance. We obtained documentation demonstrating that the subcontractors and the Town maintained the required coverage throughout the Agreement period.

According to Paragraph 5 of the Agreement, *the Grantee will identify the expected return on investment for this project and provide this information to the Governor's Office of Policy and Budget (OPB) within three months of execution of this Agreement. For each calendar year thereafter, the Grantee will provide quarterly update reports directly to the OPB, no later than 20 days after the end of each quarter, documenting the positive return on investment to the state that results from the Grantee's project and its use of funds provided under this Agreement.* These reports were not submitted to OPB as required. Based on our inquiry, the Town Manager was unaware of this requirement and had not submitted the reports to OPB as required.

Report: A-1819DEP-021

According to Paragraph 12 of the Agreement, the *Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work*. The Grant Manager had not obtained the executed subcontracts prior to submitting invoices for subcontracted work as required. We obtained copies of all subcontracts from the Town. We verified that the work outlined in the Agreement Grant Work Plan was consistent with the engineering contract and construction contract. Paragraph 21 of the Agreement indicates the Town is responsible for including a provision in all subcontracts that *employment of unauthorized aliens by any Grantee/subcontractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement*. Based on our review, this provision had not been included in the Town's subcontracts.

## **Findings and Recommendations**

### **Finding 1: Final Disbursement**

Under Task 5, required deliverables included *1) dated photographs of on-going work representing the time period covered in the payment request; 2) signed acceptance and brief description of the completed work to date by the Grantee; 3) written verification that the Grantee has received record drawings and any required final inspection report(s) for the project (as applicable); and 4) signed statement from a Florida Licensed Professional Engineer indicating construction has been completed in accordance with construction contract documents (as applicable)*. According to the Payment Request Schedule, *the deliverables must be submitted and accepted prior to each payment request and may be submitted no more frequently than monthly*. Based on documentation provided by the Grant Manager, the final disbursement was approved

Report: A-1819DEP-021

without written verification that the Town received record drawings, final inspection reports, or a signed statement from a Florida Licensed Professional Engineer indicating construction had been completed in accordance with the construction documents. In addition, the Grant Manager had not received a description of the completed work under Task 5. Subsequently, we obtained the Professional Engineer's certification regarding the completion of construction, and a description of the work completed under Task 5, as well as the Professional Engineer's record drawings dated March 31, 2019.

**Recommendation:**

Going forward, we recommend the Division ensure that Grant Managers obtain required deliverables prior to the approval of final disbursement.

**Finding 2: Quarterly Return on Investment Report**

According to Paragraph 5 of the Agreement, *the Grantee will identify the expected return on investment for this project and provide this information to the Governor's Office of Policy and Budget (OPB) within three months of execution of this Agreement. For each calendar year thereafter, the Grantee will provide quarterly update reports directly to the OPB, no later than 20 days after the end of each quarter, documenting the positive return on investment to the state that results from the Grantee's project and its use of funds provided under this Agreement.* These reports were not submitted to OPB as required. Based on our inquiry, the Town Manager was unaware of this requirement and had not submitted the reports to OPB.

**Recommendation:**

We recommend the Division work with the Town to ensure the return on investment reports are submitted to OPB as required. Going forward, the Division should consider including



Report: A-1819DEP-021

verification that the quarterly return on investment reports are submitted to OPB as part of Agreement deliverables.

### **Finding 3: Subcontract Requirements**

According to Paragraph 12 of the Agreement, the *Grantee shall submit a copy of the executed subcontracts to the Division prior to submitting any invoices for subcontracted work.* The Grant Manager had not obtained the executed subcontracts prior to submitting invoices for subcontracted work as required. We obtained copies of all subcontracts from the Town. We verified that the work outlined in the Agreement Grant Work Plan was consistent with the engineering contract and construction contract. Paragraph 21 of the Agreement indicates the Town is responsible for including a provision in all subcontracts that *employment of unauthorized aliens by any Grantee/subcontractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement.* Based on our review, this provision had not been included in the Town's subcontracts.

### **Recommendation:**

Going forward, we recommend that the Division obtain copies of executed subcontracts, as required, in order to verify that work is being completed in conformance with the Agreement requirements. Since the required provision described under Paragraph 21 was not part of the Town's subcontracts, the Division should take necessary steps to verify subcontractor compliance with Section 274(e) of the Immigration and Nationality Act.

Audit of Agreement LP10050 with the Town of Penney Farms  
Division of Water Restoration Assistance

Report: A-1819DEP-021

*To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by LeAnne Landrum and supervised by Valerie J. Peacock.*

*Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <https://floridadep.gov/oig/internal-audit/content/final-audit-reports>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.*

*Valerie J. Peacock,  
Director of Auditing*

*Candie M. Fuller,  
Inspector General*



# Florida Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000


Ron DeSantis  
Governor

Jeanette Núñez  
Lt. Governor

Noah Valenstein  
Secretary

## MEMORANDUM

**TO:** Candie Fuller, Inspector General

**FROM:** Trina Vielhauer, Director, Division of Water Restoration Assistance 

**SUBJECT:** Response to Audit A-1819DEP-021 (Town of Penney Farms)

**DATE:** June 20, 2019

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The Division of Water Restoration Assistance (Division) is in receipt of the Preliminary Report: A-1819DEP-021: Audit of Agreement LP10050 with the Town of Penney Farms (preliminary report). We appreciate the opportunity to provide comments.

### **Finding 1 – Final Disbursement**

The Division agrees with the recommendation that grant managers obtain required deliverables prior to approval of the final disbursement.

### **Finding 2 – Quarterly Return on Investment Report**

In response to the recommendation, the Division's grant manager asked the Town on June 10, 2019, to submit the return on the investment report to the Governor's Office of Policy and Budget (OPB). The Town submitted its information to OPB on June 13, 2019.

The Division considered the recommendation to include verification that return on investment reports are submitted as part of agreement deliverables. The reports are required by the Governor's Office and were not intended to be a deliverable to the Division. To avoid confusion by the grantees between deliverables required as part of each agreement's work plan and other documentation required by the terms and conditions of the grant agreement, the Division's grant managers will remind the grantees of the requirement to submit the reports to OPB at the kickoff meeting, and periodically in the term of the grant agreement.

### **Finding 3 – Subcontract Requirements**

The Division agrees with the recommendation that grant managers obtain copies of executed subcontracts, where required by the agreement terms.

In response to the recommendation, the Division's grant manager asked the Town on June 10, 2019, to provide information regarding compliance with the Immigration and Nationality Act. The Town submitted a response to the Division on June 12, 2019, that included statements from its subcontractors that they do not hire anyone who cannot provide eligibility to work in the U.S.