

**Audit of Agreement WS004 with the  
Suwannee River Water Management District**

**Office of Water Policy and Ecosystem Restoration**

**Report: A-2021DEP-014**

**Office of Inspector General**

**Internal Audit Section**

**Florida Department of Environmental Protection**

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*<https://floridadep.gov>*





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The Department of Environmental Protection (Department), Office of Inspector General (OIG) conducted an audit of Agreement WS004 (Agreement) with the Suwannee River Water Management District (District) for the Alternate Water Supply Groundwater Recharge Wetland SRWS00129A (Project) through the Office of Water Policy and Ecosystem Restoration (OWPER). This audit was initiated as part of the Fiscal Year (FY) 2020-2021 Annual Audit Plan.

## Scope and Objective

The scope of this audit included Agreement deliverables, payments, and OWPER management activities beginning March 2020. The scope of this audit also included activities associated with the subsequent Memorandum of Understanding (MOU) WP002 executed with the District for Alternative Water Supply Projects Agreement. The objectives were to:

- determine whether payments were made for activities and required deliverables in accordance with the Agreement
- determine the Department's compliance with the General Appropriations Act (GAA) and applicable statutory requirements for the use of funds
- evaluate management oversight and controls over the District's compliance with the Agreement

## Methodology

This audit was conducted under the authority of Section 20.055, Florida Statutes (F.S.), and in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors. Our procedures included a review of the Agreement, GAA, Grant Work Plan, MOU, and Florida Statutes. We reviewed OWPER selection procedures and Agreement monitoring activity and interviewed OWPER and District staff.

## Background

Section 1.M of Executive Order 19-12 issued by Governor Ron DeSantis ordered that the Department *Engage local governments, industry, universities and water management districts to identify and research all viable alternative water supply sources and provide an assessment of funding needs critical to supporting Florida's growing economy. DEP should take all necessary steps to establish recurring funding for an alternative water supply grant program to help communities plan for and implement vital conservation, reuse and other alternative water supply projects.*

Nonrecurring funds in Specific Appropriation 1642 of the 2019 GAA were provided to the Department to establish a water supply and water resource development grant program to help communities plan for and implement conservation, reuse and other water supply and water resource development projects. Grants and Aids funding for Alternative Water Supply under this Appropriation totaled \$40,000,000 in 2019.

On December 9, 2019, the Department and the District entered into the Agreement as part of the 2019 GAA Grants and Aids Specific Appropriation funded under line item 1642. The District executed a separate contract (SRWMD Contract #19/20-147) with the City of Gainesville (Local Cooperator) on March 27, 2020. According to the Agreement Scope of Work, the funded Project *is to construct a groundwater recharge wetland to recharge the Florida Aquifer using water from the Kanapaha Water Reclamation Facility. According to the Grant Work Plan Project Description, Phase I, currently being funded, will be the pre-acquisition geotechnical evaluation; site selection; and land acquisition sized to accommodate the wetland and estimated recharge goals. Future phases include: Phase II- -project design and permitting;*

*and Phase III -construction of the groundwater recharge wetland. According to the funding proposal, The project will be located in western Alachua County and will benefit flows and water quality in the lower Santa Fe and Ichetucknee Rivers and associated springs. Tasks and Deliverables as listed in the Agreement were as follows:*

<b>Task</b>	<b>Description</b>	<b>Deliverable</b>	<b>Funding</b>
1: Coordination with Local Cooperator	In accordance with Section 373.707(6)(a), F.S., District will encumber funding for the Project. District's Agreement with the Local Cooperator for the project must be cost reimbursement with final payment by the District upon completion of the work described in the Project description.	A fully executed cost-reimbursement Agreement with the Local Cooperator for the Project.	\$1,000,000
2. Project Phase 1 Completion	District will coordinate with the Local Cooperator on the completion of the Project described in the Project description.	Completion of the Project as evidenced by quarterly progress reports and a final certification for this Phase	\$0
3. Full Project Completion	District will coordinate with the Local Cooperator on completion with Phases 1, II, and III of the Project described in the Project Description.	Completion of all Phases as evidenced by a final certification from the District.	\$0
		Total Funding	\$1,000,000

Subsequent to the Agreement for funding under the 2019 GAA, the Department entered into MOU WP002 on February 8, 2021, with the District for disbursement of Alternative Water Supply Projects under the 2020 GAA.

## **Results**

### Payments for Required Deliverables

The Grant Work Plan for the Agreement included three tasks. The deliverable for Task 1 required the submission of a fully executed cost-reimbursement agreement with the Local Cooperator for the Project. Task 1 was required to be completed 120 days after execution of the Agreement. The Agreement was signed by the Department on December 9, 2019. The District's Agreement with the Local Cooperator was executed within this timeframe, and the Department approved payment of \$1,000,000 to the District on April 27, 2020. There was no funding associated with deliverables required under Tasks 2 and 3.

Compliance with GAA and Statutory Requirements

Funding for alternative water supply projects was provided as grants and aids to local governments and nonstate entities under line item 1642. The 2019 GAA line item 1642 states that, *The nonrecurring funds in Specific Appropriation 1642 are provided to establish a water supply and water resource development grant program to help communities plan for and implement conservation, reuse and other water supply and water resource development projects. Priority funding will be given to regional projects in the areas of greatest need and for projects that provide the greatest benefit. The department shall identify and research all viable alternative water supply resources and provide an assessment of funding needs critical to supporting Florida's growing economy.*

Based on this direction, OWPER management provided information to Water Management Districts regarding available Alternative Water Supply Funding via email dated July 22, 2019. OWPER created Alternative Water Supply Funding Guidance dated June 2020 to assist with selection of projects for alternative water supply funding.

Under Section 215.971 F.S., agreements funded with state assistance must include *A provision dividing the agreement into quantifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.* While the tasks listed in the Grant Work Plan included required deliverables directly related to the Scope of Work, there was no funding allocated for the Project Phase 1 completion under Task 2 or full Project completion under Task 3.

Processes and requirements for providing advanced payments for grants and aids appropriations are established under Section 216.181, F.S., as well as Chapter 69I-40.120, Florida Administrative Code (F.A.C.). Advanced payments were not formally part of the Agreement. However, by structuring the Agreement to allow disbursement of total funding upon completion of the initial task, the Department has effectively provided funding in advance of the District's completion or substantial progress of the Project. The Department approved payment of \$1,000,000 to the District on April 27, 2020. Based on correspondence with the District, on June 3, 2021, the Local Cooperator submitted a request for reimbursement of \$976,808.37 in land acquisition and related contractual service costs for the Project.

Grants and aids funding for Alternate Water Supply projects was also awarded under the 2020 GAA line item 1622. According to the 2020 GAA, *The funds in Specific Appropriation 1622 are provided to the water supply and water resource development grant program to help communities plan for and implement conservation, reuse and other water supply and water resource development projects. Priority funding will be given to regional projects in the areas of greatest need and for projects that provide the greatest benefit. The department shall identify and research all viable alternative water supply resources and provide an assessment of funding needs critical to support Florida's growing economy.* Subsequent to the Agreement, the Department entered into MOU WP002 with the District on February 8, 2021, for disbursement of Alternative Water Supply Projects under the 2020 GAA. The MOU does not identify quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the Department prior to payment. The MOU also does not contain specific Project

scope of work information for which deliverables would be based, a minimum level of service, nor the criteria for evaluating successful completion of each deliverable.

### Oversight and District Compliance with the Agreement

Section 10 of Attachment 1 of the Agreement states, *The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period.* The Grant Manager provided the required quarterly progress reports submitted by the District.

Section 27.e., of the Agreement requires that the District's accounting systems account for Agreement Project funds separately from other projects. We verified documentation demonstrating that the District's accounting system accounts for funds provided under the Agreement are separate from other funding sources.

### **Conclusion**

Based on our audit, OWPER approved payment to the District in accordance with the Agreement Grant Work Plan. However, the structure of the Agreement as well as the subsequently executed MOU WP002 was not consistent with requirements under Section 215.971 F.S. In addition, OWPER's practice of providing full funding under the Agreement upon completion of the initial task advances funding in a manner inconsistent with Section 216.181, F.S. and Chapter 69I-40.120, F.A.C.



## **Finding and Recommendation**

### **Finding 1: Agreement and Statutory Requirements**

Under Section 215.971 F.S., Agreements funded with state assistance must include a *provision dividing the agreement into quantifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.*

The Agreement was funded as a grants and aids Project to local governments and nonstate entities under 2019 GAA line item 1642. The Grant Work Plan for the Agreement included three tasks. However, the District was only required to submit the deliverable for Task 1 in order to receive full funding under the Agreement. The deliverable for Task 1 required the submission of a fully executed cost-reimbursement agreement with the Local Cooperator for the Project. While Tasks 2 and 3 as listed in the Agreement Grant Work Plan included required deliverables directly related to the Scope of Work, there was no funding associated with successful completion of the associated deliverables.

The Performance Standard associated with Tasks 2 and 3 in the Agreement Grant Work Plan states that *The Department's Grant Manager will review the deliverable to verify that it meets the specifications in the Grant Work Plan and this task description. Upon review and written acceptance by the Department's Grant Manager of the deliverable under this task, the Grantee may proceed with payment request submittal.* Since there was no funding associated with Tasks 2 and 3, the Performance Standards did not accurately reflect activities which would support successful performance under the Agreement.

Processes and requirements for providing advanced payments for grants and aids appropriations are established under Section 216.181, F.S., as well as Chapter 69I-40.120, F.A.C. Advanced payments were not formally part of the Agreement. However, by structuring the Agreement to allow disbursement of total funding upon completion of the initial task, the Department is effectively provided funding in advance of the District's completion or substantial progress of the Project. This circumstance represents a circumvention of requirements for advanced payments under Section 216.181, F.S. and Chapter 69I-40.120, F.A.C. The Department approved one payment of \$1,000,000 to the District on April 27, 2020. Based on correspondence with the District, the Local Cooperator submitted a request for reimbursement of \$976,808.37 in land acquisition and related contractual service costs for the Project on June 3, 2021. Given these circumstances, \$1,000,000 in funding was paid to the District more than a year before the District was invoiced for Project related costs by the Local Cooperator.

Grants and aids funding for Alternate Water Supply projects was also awarded under the 2020 GAA line item 1622. Subsequent to the Agreement, the Department entered into MOU WP002 with the District on February 8, 2021, for disbursement of Alternative Water Supply Projects under the 2020 GAA. The MOU does not identify quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the Department prior to payment. The MOU also does not contain a specific Project scope of work information for which deliverables would be based, a minimum level of service, nor the criteria for evaluating successful completion of each deliverable as required under Section 215.971 F.S.

## Recommendation

We recommend OWPER amend MOU WP002 to remove provisions for disbursement of funding for Alternate Water Supply projects. We recommend OWPER execute Agreements for Alternative Water Supply projects which include provisions dividing the Agreement into quantifiable units of deliverables that must be received and accepted in writing by the Department before payment. Each deliverable should be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.

Going forward, we also recommend that OWPER discontinue structuring Agreement Grant Work Plans in a manner that distributes total Project funding upon completion of the initial Task and prior to completion or substantial progress of the Project. This practice advances funding for the Project, but avoids requirements regarding advanced payments under Section 216.181, F.S. and Chapter 69I-40.120, F.A.C.

*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 Thomas Doredant 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

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## Memorandum

**TO: Valerie Peacock**  
**CC: Lawrence Pickle, Candie Fuller, Kristine Morris**  
**FROM: Edward C. Smith**  
**SUBJECT: Response to Audit of Agreement WS004**  
**DATE: 08/25/2021**

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The Office of Water Policy and Ecosystems Restoration has reviewed the findings and recommendations of the audit and provides the following response:

OWPER has been working with our Office of General Counsel, Division of Administrative Services and DFS to draft updated grant agreements that meet the requirements as outline in the audit report.