



## Department of Environmental Protection Office of Inspector General

November 20, 2024

Report A-2324DEP-025

### ***Audit of Purchase Order BA99CB/C03C5A with FRS Environmental Remediation, Inc.***

#### **INTRODUCTION**

The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Division of Waste Management (Division) Petroleum Restoration Program (PRP) Agency Term Contract GC753 (ATC) and Purchase Orders BA99CB/C03C5A (Purchase Orders) with FRS Environmental Remediation, Inc. d/b/a Montrose Environmental Solutions (Contractor). This audit was initiated as a result of the OIG Annual Audit Plan for Fiscal Year 2023-2024.

#### **AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY**

The scope of this audit included activities and financial records associated with the Purchase Orders issued to the Contractor for Remedial Action Construction and Operation and Maintenance (RAC/O&M) at the Clearwater City Fleet Maintenance site, Facility ID# 52/8631032 (Facility). The scope also included related purchase orders and activities for the Facility.

The objectives of the audit were to:

1. Determine whether approved payments were supported by documentation as required for the Schedule of Pay Items (SPI) and deliverable completion.
2. Determine whether the Contractor complied with the requirements of the Purchase Orders, ATC, and Department policies and guidance.
3. Evaluate management oversight of the Purchase Orders, Facility, and Contractor.

To achieve our audit objectives, our methodology included:

- Reviewing applicable statutes, regulations, and internal operating procedures.
- Reviewing the ATC and the Purchase Orders, including deliverables, invoices, and supporting documentation
- Interviewing appropriate Division staff and management regarding the processes and controls used in the procurement and contracting process.

#### **BACKGROUND**

The Inland Protection Trust Fund was created under § 376.3071, Florida Statutes (F.S.), to provide funding for the Department to respond to incidents of inland contamination related to the storage of petroleum and petroleum products. In order to facilitate this, PRP was implemented and oversees state-funded environmental remediation cleanup activities for petroleum-based contamination that poses a threat to the public health, safety and welfare, water resources, and the environment caused by petroleum storage systems. PRP manages activities and contracts professional services necessary to prioritize, assess, and clean up contaminated facilities in accordance with § 376.3071, F.S. These facilities are assigned Site Managers to manage and provide oversight for work performed. The Division utilizes Site Manager Standard Operating

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Procedures (SOPs) to assist Site Managers and other program staff with navigating PRP sites through the cleanup and closure process.

Per the Purchase Orders, the Contractor was selected to perform RAC and O&M at the Facility, located at 510 Pennsylvania Ave., Clearwater, Florida. Site Management was conducted by the Florida Department of Health – Pinellas County (DOH – Pinellas). Due to the State of Florida’s switch from My Florida Marketplace (MFMP) to Ariba on Demand (AOD)<sup>1</sup> for procurement, this work was divided between two Purchase Orders, MFMP Purchase Order BA99CB and AOD Purchase Order C03C5A. Purchase Order BA99CB was issued with a start date of March 8, 2022, and Purchase Order C03C5A’s start date was July 5, 2022. The Scope of Work (SOW), included in both Purchase Orders, outlined the tasks, description of the work to be completed, and deliverables. These are reflected in the table below:

<b>Task</b>	<b>Description</b>	<b>Deliverable</b>
1	Prepare an Updated Health and Safety Plan (HASP), determine details of a separate site access agreement, and conduct a pre-drilling/construction meeting.	Updated HASP, separate site access agreement, field/meeting notes.
2	Install air sparge wells, soil vapor extraction wells, and remedial system trenching. Collect split spoon and pre-burn samples and analyze per Soil-Air Sampling Table. Dispose of Investigation-Derived Waste (IDW). Mobilize and perform off-site direct push boring with in-situ injections per the Remedial Action Plan (RAP) and obtain an off-site access agreement as needed. Photograph before/during/after construction activities.	Remedial Action General Report, signed and sealed by a P.E. (Professional Engineer) or P.G. (Professional Geologist), including field notes, permits, well construction logs, waste manifest, lab reports, chain of custody, subcontractor invoices.
3	Mobilize an AS/SVE rental system to the site to perform necessary connections. Perform the system startup. Collect baseline water samples, air samples, and system parameters per the RAP and O&M Parameters Table. Prepare the Remedial Action Startup report.	Remedial Action Startup Report to include P.E. signed and sealed as-built drawings, and Electronic Data Deliverables (EDD)
4	Mobilize weekly for one month and then monthly to confirm operation and maintenance of the remedial system. Space monthly O&M visits evenly. Perform groundwater, system, and air sampling within one week of the last O&M visit (on the third month) and submit O&M report within 30 days of groundwater collection.	Year 1 Quarter 1 O&M Report including field notes, calibration records, groundwater well sampling logs, lab reports, EDDs, chain of custody, updated figures, tables, conclusions, and recommendations(s).

The original cost estimate provided in Purchase Order BA99CB was \$210,609.90, which was updated to \$210,009.68 when Purchase Order C03C5A was issued. Twelve Change Orders were issued during these Purchase Orders, which raised the total cost to \$240,980.79. All four payments to the Contractor occurred under Purchase Order C03C5A, with the total amounting to \$186,714.55.

<b>Tasks Invoiced</b>	<b>Date Paid</b>	<b>Amount</b>
1, 2, and 3, Partial	February 23, 2023	\$ 58,775.27
2 and 3, Partial	May 4, 2023	\$ 65,105.35
3	October 18, 2023	\$ 34,436.83
4	February 7, 2024	\$ 28,397.10
<b>Total</b>		<b>\$ 186,714.55</b>

<sup>1</sup> The AOD application replaced the MFMP application as a tool for managing Purchase Orders.

**RESULTS OF AUDIT**

During the audit, we reviewed documentation and records related to the Contractor’s completion of the deliverables, the subsequent invoices, payment disbursement, ATC and Purchase Order requirements, Division SOPs, and any applicable laws and statutes. Based on our review we found the following:

**Field Work Notifications**

The Purchase Orders state the following, *Contractor must provide written notification (emails are acceptable) of field activities at least seven (7) calendar days prior to the commencement of work to all applicable parties including the PRP site manager, PRP Inspector (PRP\_Inspector@dep.state.fl.us), site operator, site owner, RP [Responsible Party] and affected off-site property owners.* Our review found three instances in which field work notifications were sent less than seven days prior to the field activity and one instance where no notification was sent (see table below).

Notification Date	Purpose	Predicted Onsite Date	Actual Onsite Date	Number of Days Notice Given
Dec. 8, 2022	Pre-drill/pre-construction meeting	Dec. 13, 2022	Dec. 13, 2022	5
Jan. 11, 2023	Well installation event	Jan. 16-23, 2023	Jan. 16-23, 2023	5
Jan. 25, 2023	Trenching and system installation	Jan. 31 – Feb. 17, 2023	Jan. 31 – Feb. 17, 2023	6
No prior notification	Well sampling	Not provided	April 20, 2023	0

During our review, we noted that DOH – Pinellas’ deliverable review letters inform the Contractor that, *DOH Pinellas requests that written notification to be provided within 7 days, but not less than 24 hours, of performing all field activities and sampling events.* This information conflicts with the PRP requirement that written notification be provided at least seven days prior to field activities.

**Site Visits**

In accordance with SOP–12 Site Visits and Inspections, Site Managers shall complete a Site Inspection Form for every site visit they make. The Site Manager conducted two site visits during Purchase Order C03C5A, one on December 13, 2022, and one on February 7, 2023. In both instances, the incorrect form was completed; the Site Manager used a Field Inspection Summary Form instead of a Site Inspection Form.

**Utilities**

In accordance with SOP–15 Utility Accounts, *Utility accounts are required to provide service for the operation of remediation systems...Typically, only electric accounts are set up by the Site Manager for direct payment by the Department.* The O&M in these Purchase Orders consisted of an Air Sparge/Soil Vapor Extraction remediation system that required electricity and a utility account. This facility does not have a cost share and the Department pays 100% of the utilities. Based on the PRP Site Manager Guide, the Site Manager is responsible for setting up the utility account, which involves completing and sending a Utility Account Establishment Authorization Letter and the Tax-Exemption Certification to the utility company, and uploading a copy of the

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Utility Account Establishment Authorization Letter to OCULUS<sup>2</sup> prior to the receipt of the first invoice. When the direct utility payments need to be made, they are processed by the PRP Accounting Section and forwarded to the Department's Finance and Accounting for payment. Our review found the Site Manager did not upload the Utility Account Establishment Authorization Letter prior to the receipt of the first invoice. Given that there are two Purchase Orders associated with this work, we used the date of the first invoice submitted under Purchase Order C03C5A as the benchmark for this requirement because Purchase Order BA99CB had ended at the time of utility account establishment. The first invoice under Purchase Order C03C5A was received on February 9, 2023, and the Utility Account Establishment Authorization Letter was uploaded to OCULUS on March 10, 2023.

Additionally, based on our review of the utility bills and payments recorded in the Storage Tank Contamination Monitoring Database, the Department did not make consistent or sufficient payments (see table below). Because of this, the balance due to the utility company increased each month. During the audit, we discussed the insufficient utility payments with PRP Accounting staff and were told they were working to correct the errors. Subsequent to our discussion, PRP Accounting staff were able to provide documentation showing the payment errors had been corrected. The utility payment history for this Facility during Purchase Order C03C5A is shown below.

Billing Period	Usage	Amount Due	Amount Paid
April 12 – May 11, 2023	0 kWh	\$90.69	\$90.69
May 12 – June 13, 2023	1 kWh	\$32.69	\$32.69
June 14 – July 13, 2023	498 kWh	\$104.26	\$104.26
July 14 – August 11, 2023	2,493 kWh	\$454.04	\$454.04
August 12 – September 13, 2023	2,016 kWh	\$371.08	\$371.08
September 14 – October 12, 2023	2,637 kWh	\$480.16	\$434.75 + \$39.59 <sup>3</sup>
October 13 – November 13, 2023	5,028 kWh	\$893.56	\$893.56

**Subcontracted Work**

Regarding the use of subcontractors, the ATC states, in part, that the *Contractor shall not sell, assign or transfer any of its rights, duties or obligations under this Contract, or under any Work Assignment issued pursuant to this Restated Contract (Rights and Duties), without the prior written consent of Department...*

1. *Contractor shall not subcontract any work under this Contract, with the exception of those subcontractors authorized by the Department, without the prior written consent of Department's Contract Manager....*
6. *With regard to Work Assignments supported by quotes – subcontractors listed in such quotes will not be automatically added to the Authorized Subcontractor List (in paragraph 19.A.2). Upon issuance of any Work Assignment based on such quote, all proposed subcontractors which have not previously been added to the Authorized Subcontractor List shall be provisionally authorized to work on the subject Work Assignment.*

The Purchase Orders also require that the *Contractor must include Subcontractor Utilization Report form, included as a tab on Attachment B, with each invoice.* The subcontractors approved to work with the Contractor was determined using the Department's Approved Subcontractors list from September of 2021, which was the most recent list published prior to the start of Purchase Order BA99CB. The approved subcontractors on this list were then compared to the subcontractors reported on each Subcontractor Utilization Report form, accounting for

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<sup>2</sup> OCULUS is the Department's electronic document management system, <https://depedms.dep.state.fl.us/Oculus/servlet/search>

<sup>3</sup> Due to the error and reconciliation, two payments were made for the September – October invoice.

subcontractors approved via quote. Based on this analysis, 16 of the 29 reported subcontractors were neither approved by the Department to work with the Contractor nor supported by a quote. Our review did find that the eight subcontractors supported by quotes adhered to the applicable requirements.

Our review found an internal procedural change which no longer allows the Site Manager to verify or review the Subcontractor Utilization Report form submitted in each invoice. The Site Manager Guide states, *Once an invoice has been received by PRP Accounting, an email notification will be issued to the Site Manager notifying them that an invoice is waiting for approval. Turnaround time on invoice approval begins when the invoice is received by PRP Accounting, not when submitted in MFMP, therefore, invoices should be approved as soon as possible.* MFMP has since been replaced with AOD, and thus the invoices submitted during Purchase Order C03C5A were processed in the new purchasing system. We contacted PRP Accounting and asked if the Site Managers still review the invoices after they are submitted in AOD and they stated that the Site Manager's review of invoices was eliminated in the transition. Due to this, the Site Manager can no longer confirm if the Subcontractor Utilization Report form has been included with the invoice, as required. Furthermore, the Subcontractor Utilization Report form is the only place where a complete list of subcontractors is disclosed prior to the final invoice. Therefore, the Site Manager is not provided with a complete list of subcontractors to evaluate whether they are approved by the Department. Additionally, because this form is submitted at the time of the payment request, the work would have already been completed by a potentially unapproved subcontractor.

As a result of a previous audit finding<sup>4</sup> regarding use of unapproved subcontractors, PRP provided additional training for Site Managers on the requirements for all subcontractors to be listed on the Contractor's approved subcontractor list or included on the subcontractor quote form. Further, PRP agreed that internal controls should be strengthened and will include specific consequences for the use of unapproved subcontractors in any future contracts.

### **Deliverables and Retainage**

The Purchase Order's Scope of Work established a retainage amount of 5%, which is withheld from each invoice payment until the completion and approval of all tasks. Our review found that this amount was withheld from each invoice and paid to the Contractor at the end of Purchase Order C03C5A.

The Tasks 1 and 2 deliverables, an Updated HASP and Remedial Action General Report, respectively, were provided late; however, this was due to the transition from Purchase Order BA99CB in MFMP to Purchase Order C03C5A in AOD. The same SOW was included in both Purchase Orders, and at the time of Purchase Order C03C5A's issuance, the Task 1 deliverable due date had elapsed, and the Task 2 deliverable due date was the same date the Purchase Order was issued. Additionally, Change Orders issued under Purchase Order BA99CB prior to the transition had requested date extensions for the Task 1 deliverable, but these changes were not reflected in the subsequently issued Purchase Order C03C5A. In response, DOH – Pinellas issued a Memorandum to PRP supporting the payment of retainage for Tasks 1 and 2, as the due dates could not be met by the Contractor.

### **Invoices**

#### **SPI and Allowed Rates**

The Contractor's SOW is supported by a detailed SPI rate sheet that includes project specific pay items, number of units, and negotiated item rates. These negotiated rates for each SPI are based

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<sup>4</sup> The finding was previously addressed by the Division in the OIG Audit Report A-2324DEP-008.

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on the fixed rate schedule in Attachment D of the ATC and are updated throughout the course of the ATC via amendments. We reviewed paid invoices for each task to identify the SPIs claimed and amount paid for each. We compared the amounts paid to the negotiated item price from Amendment 8 of the ATC to determine whether the amounts paid were allowable. Based on our review, the SPI amounts within the Purchase Orders were consistent with the ATC rates; however, some of the required supporting documentation was not submitted.

Required Documentation for SPI Invoicing

Prior to payment, the Contractor is required to submit specific supporting documentation within the deliverable for each invoiced SPI. The basis for establishing which documents are mandatory comes from the list of required documents per each pay item, which is provided by the Division in Attachment B – SPI and Other Related Documents. Based on our review, we identified some SPIs that were invoiced, but not supported by the required documentation listed in Attachment B. More specifically, we found some SPIs were supported by some, but not all the required documentation, one SPI in which the required documentation could not be met, and one SPI was not supported by any of the required documentation.

The table below displays the required documentation for each Task/SPI with the missing documentation underlined. For most SPIs listed in the table, some of the required documentation is present, allowing us to determine that the invoiced SPIs appear to have been completed. However, due to the missing documentation, the Contractor did not comply with the requirements of the ATC and Purchase Orders. Additionally, photo documentation was a part of the required documentation for some SPIs listed in the table. We found there were a few instances in which the date and location the photos were taken was included; however, none of the photos were labelled to correspond to which pay item they represented. Because of this, we were unable to reconcile the photos with the appropriate pay item. We asked DOH – Pinellas how they reconcile photos and pay items when they review the deliverables. They stated that the Site Manager must be familiar with the project and technologies utilized, and that the reports should be reviewed by a technical specialist as well. Our review was unable to locate specific requirements or guidance regarding the labelling and identification of photos.

Task SPI	Description	Required Documentation (Underline denotes documentation missing)	Units Claimed	Cost
<b>Tasks 1, 2, &amp; 3 Interim/Partial Deliverable and Invoice</b>				
Task 1 1-5.	Off-Site Property Access Agreement	<u>Copy of executed access agreement</u>	1 [per Agreement]	\$375.00
Task 2 8-6	Soil/Sediment Sample Collection	Field notes, <u>well sampling and calibration logs and sample chain of custody form</u>	1 [per Sample]	\$48.50
Task 2 15-8	Utility Drop	<u>Field notes</u> and vendor invoice	929.21 [Reimbursable]	\$929.21
<b>Tasks 2 and 3 Remedial Action General Report and Invoice</b>				
Task 2 12-5	Transport and Disposal of Mixed Debris	<u>Field notes, weigh tickets and disposal facility documentation, manifests, receipt, ect. [sic]</u>	13.79 [per Ton]	\$751.56
Task 2 12-7	Transport Petroleum Impacted Soil (bulk) ≤ 100 miles	<u>Field notes, photo documentation, waste manifest and disposal facility documentation or receipt</u>	5.67 [per Ton]	\$111.70
Task 2 12-9	Disposal of Petroleum Impacted Soil at a	<u>Field notes, photo documentation, waste manifest</u>	5.67 [per Ton]	\$172.94

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	Landfill (bulk) ≤ 450 tons	and distance justification, and disposal facility documentation or receipt		
Task 2 12-17	Delivery, Pick Up and Rental of 20 Cubic Yard Roll-Off Container	Field notes, <u>photo documentation</u> , waste manifest and disposal facility documentation or receipt	3 [per Week]	\$2,850.00
Task 2 12-18	Additional Rental of 20 Cubic Yard Roll-Off Container	Field notes, <u>photo documentation</u> , waste manifest and disposal facility documentation or receipt	1 [per Week]	\$220.00
Task 3 12-5	Transport and Disposal of Mixed Debris	Field notes, weigh tickets and disposal facility documentation, manifests, receipt, ect. [sic]	13.15 [per Ton]	\$716.68
Task 3 12-17	Delivery, Pick Up and Rental of 20 Cubic Yard Roll-Off Container	Field notes, <u>photo documentation</u> , waste manifest and disposal facility documentation or receipt	1 [per Week]	\$950.00
Task 3 15-9	Utility Connection	Field notes and vendor invoice	2488 [Reimbursable]	\$2,488.00
<b>Task 3 Remedial Action Startup Report and Invoice</b>				
Task 3 15-4c	System Installation/ Integration/Startup - 1 Technology Component - 21-30 Recovery/ Treatment Points	Field notes, system readings and <u>photo documentation</u>	1 [per Startup]	\$22,000.00
Task 3 15-5	System Installation /Integration/Startup – Addition of 1 Technology Component	Field notes, system readings and <u>photo documentation</u>	1 [per Additional Tech Component]	\$2,100.00
Task 3 21-6c	P.E. Project Oversight for Remediation System Integration and Startup - Large System	Field notes and work performed in accordance with Scope	1 [per System]	\$2,100.00
<b>Task 4 Year 1 Quarter 1 Remedial Action O&amp;M Report and Invoice</b>				
Task 4 8-1	Monitoring Well Sampling with Water Level, ≤ 100 foot depth	Field notes, well sampling and calibration logs and sample chain of custody form	11 [per Well]	\$2,475.00
<b>Total</b>				<b>\$38,288.59</b>

**ADaPT Uploads and Laboratory Turnaround**

During our review we noted that pay item 9-77, *Additional Laboratory % Surcharge authorized in the ATC for 1 Day Turnaround*, was charged for three air samples under Purchase Order C03C5A. The required documentation for this pay item includes a lab report, ADaPT upload<sup>5</sup>, and updated tables. However, per the Division’s ADaPT user guide, PRP does not require an ADaPT upload for air samples. As such, none were submitted by the Contractor and do not appear to have been required in this instance.

**Off-Site Access Agreement**

Our review noted that pay item 1-5 for an *Off-Site Property Access Agreement* was not supported

<sup>5</sup> An ADaPT upload is the results from the use of the Automatic Data Processing Tool, utilized by the Division to evaluate water and soil quality data.

by a copy of the executed access agreement, as required. The Contractor provided a Right-of-Way Permit from the City of Clearwater in the Tasks 1, 2, and 3 Interim/Partial Deliverable and identified it as the Off-Site Access Agreement; however, this permit does not follow either of PRP's templates for an Off-Site Access Agreement.<sup>6</sup>

#### CSX Property Site Access

Additionally, our review found some in-situ chemical oxidation injections occurred on CSX property. CSX Transportation has specific requirements for property access, both on and off-site, which are outlined in the PRP Procedures for CSX Property Site Access and Direct Payment for Railroad Flag Protection guidance document. These requirements include the execution of a *RIGHT-OF-ENTRY: Access to CSX Transportation, Inc. Property for Certain Environmental Investigatory Work Paid for by the State of Florida, Department of Environmental Protection's Petroleum Restoration Program* agreement and an *INDEMNIFICATION AGREEMENT FOR CONTRACTOR* prior to any work being performed. Additionally, the Site Manager is required to submit the CSX Application for Right-of-Entry through the CSX Property Portal and the *RIGHT-OF-ENTRY* package is also required to be uploaded to OCULUS. We asked DOH – Pinellas if these forms had been executed, as they were not available in OCULUS. Per email correspondence with DOH – Pinellas, the Contractor provided the following statement, *The right-of-entry and indemnification forms have not been executed. The intent was for the injections to be performed outside the CSX right-of-way. However, it does appear that some of the injection points may have inadvertently been performed in the CSX right-of-way.*

#### Contractor Performance Evaluation

In accordance with Rule 62-772.300(6), Florida Administrative Code (F.A.C.), Contractor performance on state-funded petroleum cleanup projects shall be evaluated, monitored, and documented after each Task Assignment or Purchase Order. The Contractor Performance Evaluation (CPE) must be completed by the Site Manager after the final invoice has been submitted for each Work Order or Purchase Order.

According to Section 19.1 of the PRP Site Manager Guide, *Seven (7) days' notice is required for all upcoming field work, otherwise 2 cannot be selected.* A rating of 2 is the highest performance ranking. As noted in the field work notification section of this report, three field work notifications occurred less than seven days prior and there was one occurrence of field work with no prior notification. These instances were not noted by the Site Manager and the Contractor received full points in this section of the CPE.

The Site Manager Guide also advises that *Patterns of RFCs [Request for Change] for time extensions received by the Site Manager less than 20 days from when the deliverable is due should be addressed in section 4. Item a.* Section 4a evaluates the Contractor's communication on changes, problems, delays and issues as they occurred and ahead of deadlines. Our review found four Change Orders requesting due date extensions that were submitted less than 20 days prior to this due date; however, the Site Manager did not note these instances on the CPE. These were:

- Change Order 2 was submitted 14 days before the deliverable deadline.
- Change Order 3 was submitted 18 days before the deliverable deadline.
- Change Order 10 was submitted 14 days before the deliverable deadline.
- Change Order 11 was submitted 9 days before the deliverable deadline.

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<sup>6</sup> The SOP on Site Access does state that when accessing a Florida Department of Transportation (FDOT) Right-of-Way, the FDOT General Use Permit can be used as a substitute for a Site Access Agreement; however, this Right-of-Way Permit was from the City of Clearwater, not FDOT.



Our review noted that PRP furnishes a Contractor Performance Evaluation Form as well as a CPE guidance document which provides criteria to help Site Managers complete their evaluation and score the Contractor. Additional criteria regarding the CPE is provided in the Site Manager Guide, including the instruction to look for patterns of RFCs received less than 20 days prior to the deliverable due date. However, some of the CPE criteria from the Site Manager Guide is not provided in either the CPE guidance document or CPE form, and therefore may not be considered when a Site Manager is completing the evaluation.

### **Time Requirements**

Our review found three instances in which required timeframes were not met in regard to invoice submission, final deliverables, and groundwater samples. The ATC specifies that invoices must be received from the Contractor within 30 days of written approval of the deliverable. The Task 4 invoice was received by the Department 35 days after the Site Manager approved the deliverable. In accordance with the ATC, *failure to submit the final invoice within the timeframe may result in automatic cancellation, termination or suspension of the Work Assignment and Contractor's forfeiture of any unpaid balance for such deliverables*. The conditional language of the ATC does not require these actions to be taken; however, the Site Manager did acknowledge the late invoice submission on the CPE and adjusted the Contractor's score accordingly.

The Task 4 Description in the SOW requires that *Groundwater samples must be collected within one week after the last (3rd month) O&M visit. The O&M Report must be submitted within 30 days of the groundwater collection date*. Groundwater samples were collected on October 9, 2023, and the Task 4 Remedial Action O&M Report was received on November 13, 2023, which exceeded the 30-day timeframe.

Additionally, the Site Manager Guide states, *The PO end date should always be at least 60 days past the final deliverable due date. If deliverable due dates are extended, the PO end date should be extended accordingly*. According to AOD, the Task 4 final deliverable due date was extended to November 22, 2023, via Change Order 12; however, the Purchase Order end date was not extended when this occurred. Prior to Change Order 12, the Purchase Order end date was set at January 5, 2024, where it remained for the duration of Purchase Order C03C5A. These two dates were only 44 days apart, which did not meet the 60-day requirement.

### **Contract Management Oversight**

Section 287.057(15)(a), F.S. governs the procurement of commodities or contractual services and states, *For each contractual services contract, the agency shall designate an employee to function as contract manager who is responsible for enforcing performance of the contract terms and conditions and serves as a liaison between the contractor and the agency...*

1. *Participating in the solicitation development and review of contract documents.*
2. *Monitoring the contractor's progress and performance to ensure procured products and services conform to the contract requirements and keep timely records of findings.*
3. *Managing and documenting any changes to the contract through the amendment process authorized by the terms of the contract.*
4. *Monitoring the contract budget to ensure sufficient funds are available throughout the term of the contract.*
5. *Exercising applicable remedies, as appropriate, when a contractor's performance is deficient.*

Per PRP requirements, the Site Manager entered the following statement on every deliverable review letter under Purchase Order C03C5A:

*I, [Site Manager's Name], certify that I am the Contract Manager and the provided information is true and correct; the goods and services have been satisfactorily received and payment is now due. I understand that the office of the State Chief Financial Officer reserves the right to require additional documentation and/or to conduct periodic post-audits of any agreements.<sup>7</sup>*

Statutorily, a Contract Manager's responsibility is to monitor and ensure the Contractor's progress and performance conform to the Contract when providing products and services. As detailed within our review, we found oversight of the Purchase Orders lacked adequate internal controls regarding field work notifications, site visits, subcontracted work, required documentation for SPI invoicing, completion of the CPE, and timeliness. The statute further specifies, *Each contract manager who is responsible for contracts in excess of \$100,000 annually must, in addition to the accountability in contracts and grant management training required in paragraph (b) and within 6 months after being assigned responsibility for such contracts, complete training in contract management and become a certified contract manager.* Purchase Order C03C5A exceeded \$100,000; however, the Site Manager who entered the certification statement on the deliverable review letters did not appear to be a certified contract manager pursuant to § 287.057(15)(c), F.S.

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## **CONCLUSION**

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During the audit, we reviewed documentation and records related to the Contractor's completion of the deliverables, the subsequent invoices, payment disbursement, ATC and Purchase Order requirements, Division SOPs, and any applicable laws and statutes. Based on our review of documentation, discussions with PRP staff, and the activities and financial records associated with the Purchase Orders, it appears that the Contractor generally completed the Scope of Work in the Purchase Orders. However, our review noted some areas where internal controls could be strengthened. Our findings and recommendations are listed below.

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## **FINDINGS AND RECOMMENDATIONS**

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**Finding 1: SPI Documentation – The Contractor received payment for pay items that were not supported by the required documentation.**

The Contractor's SOW is supported by a detailed SPI rate sheet that includes project specific pay items, number of units, and negotiated item rates. Prior to payment, the Contractor is required to submit specific supporting documentation within the deliverable for each invoiced SPI. Based on our review, we identified some SPIs that were invoiced, but not supported by the required documentation listed in Attachment B. More specifically, we found some SPIs were supported by some, but not all the required documentation and one SPI not supported by any of the required documentation. The table on pages 6 and 7 displays the required documentation for each Task/SPI with the missing documentation underlined. For most SPIs listed in the table, some of the required documentation was present, allowing us to determine that the invoiced SPIs appear to have been completed. However, due to the missing documentation, the Contractor did not comply with the requirements of the ATC and Purchase Orders. Additionally, photo documentation was a part of the required documentation for some SPIs listed in the table. We found there were a few instances in which the date and location the photos were taken was included; however, none of the photos were labelled to correspond to which pay item they

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<sup>7</sup> The Site Manager Guide instructs that this statement should be entered into MFMP once the Site Manager has reviewed the invoice. However, in the transition to AOD, Site Manager review of invoices was eliminated. I spoke to PRP Accounting about this, they stated that the Site Manager is now required to add this certification statement to the deliverable review letter, which was done for Purchase Order C03C5A.

represented. Because of this, we were unable to reconcile the photos with the appropriate pay item. We asked DOH – Pinellas how they reconcile photos and pay items when they review the deliverables. They stated that the Site Manager must be familiar with the project and technologies utilized, and that the reports should be reviewed by a technical specialist as well. Our review was unable to locate specific requirements or guidance regarding the labelling and identification of photos.

#### Off-Site Access Agreement

As shown in the table on pages 6 and 7, our review noted that pay item 1-5 for an *Off-Site Property Access Agreement* was not supported by a copy of the executed access agreement, as required. The Contractor provided a Right-of-Way Permit from the City of Clearwater in the Tasks 1, 2, and 3 Interim/Partial Deliverable and identified it as the Off-Site Access Agreement; however, this permit does not follow either of PRP’s templates for an Off-Site Access Agreement.

#### **Recommendations:**

We recommend the Division work with PRP and Site Management to review payments made for questioned SPI costs, and request reimbursement for the SPI costs where required documentation was not provided. We also recommend the Division strengthen the process for identifying and verifying that photo documentation supports the corresponding pay item.

#### **Management Response:**

Off-Site Property Access Agreement (SPI 1-5) line item was approved for costs to obtain a Right-of-Way (ROW) permit from the City of Clearwater in the Tasks 1, 2, and 3 Interim/Partial Deliverable to conduct groundwater treatment in the ROW. The contractor provided a copy of the approved permits in the January 31, 2023, Interim Deliverable. Since the permit authorizes site access, PRP considers an approved permit as acceptable documentation to serve as an offsite access agreement (SPI 1-5) and reimbursement was not requested. The PRP website has been updated to reflect local government permits in addition to DOT permits are acceptable to serve as access agreements.

Request for reimbursement of \$37,913.59 for items listed on pages 6 and 7 of the audit report (not including SPI 1-5 off-site access agreement) was sent to the contractor on November 13, 2024. PRP also reminded Local Program Managers during the February 21, 2024, PRP Managers Meeting and again in the November 14, 2024, Local Program Managers teleconference of the importance of ensuring that the required SPI documentation is reviewed and verified prior to invoice approval and payment.

Photo documentation serves as additional backup to field notes and other documentation. If photographs and other documentation required are not clear to the site manager, they request additional clarification as needed. In addition, PRP is updating the SPI to remove photo documentation as a required document for line items where photos are not necessary to verify work was completed.

**Finding 2: Right-of-Entry Agreement – The Contractor performed off-site work on property without obtaining a required Right-of-Entry agreement.**

Our review found some in-situ chemical oxidation injections appear to have occurred on CSX property. CSX Transportation has specific requirements for property access, both on and off-site, which are outlined in the PRP Procedures for CSX Property Site Access and Direct Payment for Railroad Flag Protection guidance document. These requirements include the execution of a *RIGHT-OF-ENTRY: Access to CSX Transportation, Inc. Property for Certain Environmental Investigatory Work Paid for by the State of Florida, Department of Environmental Protection’s*

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*Petroleum Restoration Program agreement and an INDEMNIFICATION AGREEMENT FOR CONTRACTOR prior to any work being performed. Additionally, the Site Manager is required to submit the CSX Application for Right-of-Entry through the CSX Property Portal and the RIGHT-OF-ENTRY package is also required to be uploaded to OCULUS. We asked DOH – Pinellas if these forms had been executed, as they were not available in OCULUS. Per email correspondence with DOH – Pinellas, the Contractor provided the following statement, *The right-of-entry and indemnification forms have not been executed. The intent was for the injections to be performed outside the CSX right-of-way. However, it does appear that some of the injection points may have inadvertently been performed in the CSX right-of-way.**

**Recommendations:**

We recommend the Division work with PRP and Site Managers to review the requirements for CSX property site access and strengthen internal controls to ensure that the Procedures for CSX Property Site Access and Direct Payment for Railroad Flag Protection are completed by the Site Manager and the Contractor for this Facility.

**Management Response:**

PRP agrees and trained on CSX property site access procedures and verifying the location and property that work is being conducted in the October 17, 2024, Program Teleconference. PRP followed up with notes from the teleconference which were distributed to all site managers. PRP also reminded contractors of the importance and specific requirements associated with CSX properties in the October 2024 PRP Post.

**Finding 3: Field Activities Notification – The Contractor did not always submit written notification of field activities at least 7 calendar days prior to commencement of work, as required.**

In accordance with the Purchase Orders, *Contractor must provide written notification (emails are acceptable) of field activities at least seven (7) calendar days prior to the commencement of work to all applicable parties including the PRP site manager, PRP Inspector..., site operator, site owner, RP [Responsible Party] and affected off-site property owners.* Our review found three instances in which notifications were sent less than seven days prior to the field activity and one instance where no notification was sent (see table below).

Notification Date	Purpose	Predicted Onsite Date	Actual Onsite Date	Number of Days Notice Given
Dec. 8, 2022	Pre-drill/pre-construction meeting	Dec. 13, 2022	Dec. 13, 2022	5
Jan. 11, 2023	Well installation event	Jan. 16-23, 2023	Jan. 16-23, 2023	5
Jan. 25, 2023	Trenching and system installation	Jan. 31 – Feb. 17, 2023	Jan. 31 – Feb. 17, 2023	6
No prior notification	Well sampling	Not provided	April 20, 2023	0

During our review, we noted that deliverable review letters from DOH-Pinellas inform the Contractor that, *DOH Pinellas requests that written notification to be provided within 7 days, but not less than 24 hours, of performing all field activities and sampling events.* This information conflicts with the PRP requirement that written notification be provided at least seven days prior to field activities.

**Recommendations:**

We recommend the Division work with PRP and Site Managers to review the requirements surrounding field activity notifications and ensure that DOH-Pinellas' instructions to contractors are consistent with PRP's requirement.

**Management Response:**

PRP agrees and trained on fieldwork notification timeframes in the October 17, 2024, Program Teleconference. PRP followed up with notes from the teleconference which were distributed to all site managers. In addition, PRP met individually with DOH-Pinellas to discuss fieldwork notification requirements and updating the DOH-Pinellas template review letter with the correct PRP notification timeframes during a November 5, 2024, phone call.

**Finding 4: Contractor Performance Evaluation (CPE) – The Site Manager did not reduce the CPE score to reflect Contractor noncompliance.**

In accordance with Rule 62-772.300(6), F.A.C., Contractor performance on state-funded petroleum cleanup projects shall be evaluated, monitored, and documented after each Task Assignment or Purchase Order. The CPE must be completed by the Site Manager after the final invoice has been submitted for each Work Order or Purchase Order. Our review found the following inconsistencies:

- According to Section 19.1 of the PRP Site Manager Guide, *Seven (7) days' notice is required for all upcoming field work, otherwise 2 cannot be selected.* A rating of 2 is the highest performance ranking. As noted in this report, three field work notifications occurred less than seven days prior and there was one occurrence of field work with no prior notification. These instances were not noted by the Site Manager and the Contractor received full points in this section of the CPE.
- The Site Manager Guide also advises that *Patterns of RFCs [Request for Change] for time extensions received by the Site Manager less than 20 days from when the deliverable is due should be addressed in section 4. Item a.* Section 4a evaluates the Contractor's communication on changes, problems, delays and issues as they occurred and ahead of deadlines. Our review found four Change Orders requesting due date extensions that were submitted less than 20 days prior to this due date; however, the Site Manager did not note these instances on the CPE.

**Recommendation:**

We recommend the Division work with PRP and Site Managers to review and ensure the requirements for completing CPEs are followed.

**Management Response:**

PRP agrees and reminded site managers of procedures regarding scoring of CPEs for fieldwork notification and request for change submittal timeframes in the October 17, 2024, Program Teleconference. PRP followed up with notes from the teleconference which were distributed to all site managers. PRP also discussed the importance of confirming CPE scores prior to approving in the November 14, 2024, Local Program Managers teleconference. In addition, the previous CPE for this purchase order has been cancelled and a new CPE reissued on November 13, 2024, with revised scores.

**Finding 5: Utility Payments – The Department did not pay the correct amount for utility payments for the Facility.**

In accordance with SOP–15 Utility Accounts, *Utility accounts are required to provide service for the operation of remediation systems...Typically, only electric accounts are set up by the Site Manager for direct payment by the Department.* The O&M in these Purchase Orders consisted of an Air Sparge/Soil Vapor Extraction remediation system that required electricity and a utility account. This facility does not have a cost share and the Department pays 100% of the utilities. Based on the PRP Site Manager Guide, the Site Manager is responsible for setting up the utility account, which involves completing and sending a Utility Account Establishment Authorization Letter and the Tax-Exemption Certification to the utility company, and uploading a copy of the letter to OCULUS prior to the receipt of the first invoice. When the direct utility payments need to be made, they are processed by the PRP Accounting Section and forwarded to the Department's Finance and Accounting for payment. Our review found the Site Manager did not upload the Utility Account Establishment Authorization Letter into OCULUS prior to the receipt of the first invoice. The first invoice under Purchase Order C03C5A was received on February 9, 2023, and the Utility Account Establishment Authorization Letter was uploaded to OCULUS on March 10, 2023.

Additionally, based on our review of the utility bills and payments made, the Department did not make consistent or sufficient payments. Because of this, the balance due to the utility company increased each month. During the audit, we discussed the insufficient utility payments with PRP Accounting staff and were told they were working to correct the errors. Subsequent to our discussion, PRP Accounting staff were able to provide documentation showing the payment errors had been corrected.

**Recommendation:**

We recommend the Division work with PRP to strengthen internal controls surrounding the submission and payment of utility bills.

**Management Response:**

Utility Bills are managed and paid in the Financial Management Program (FMP) in the Division of Waste Management. FMP agrees with the finding and provided training in the February 8, 2024, Program Teleconference to remind PRP site managers and accounting staff of procedures for submission and payment of utility bills. FMP staff were also trained on May 1, 2024, to ensure utility bills are paid timely and for the correct amount.

**Finding 6: Time Requirements – The Contractor did not meet required timeframes regarding invoice submission and groundwater samples, and the Division did not extend the Purchase Order end date as required.**

Our review found three instances in which required timeframes were not met in regard to invoice submission, final deliverables, and groundwater samples. The ATC specifies that invoices must be received from the Contractor within 30 days of written approval of the deliverable. The Task 4 invoice was received by the Department 35 days after the Site Manager approved the deliverable. In accordance with the ATC, *failure to submit the final invoice within the timeframe may result in automatic cancellation, termination or suspension of the Work Assignment and Contractor's forfeiture of any unpaid balance for such deliverables.* The conditional language of the ATC does not require these actions to be taken; however, the Site Manager did acknowledge the late invoice submission on the CPE and adjusted the Contractor's score accordingly.

The Task 4 Description in the SOW requires that *Groundwater samples must be collected within one week after the last (3rd month) O&M visit. The O&M Report must be submitted within 30 days*

of the groundwater collection date. Groundwater samples were collected on October 9, 2023, and the Task 4 Remedial Action O&M Report was received on November 13, 2023, which exceeded the 30-day timeframe.

Additionally, the Site Manager Guide states, *The PO end date should always be at least 60 days past the final deliverable due date. If deliverable due dates are extended, the PO end date should be extended accordingly.* According to AOD, the Task 4 final deliverable due date was extended to November 22, 2023, via Change Order 12; however, the Purchase Order end date was not extended when this occurred. Prior to Change Order 12, the Purchase Order end date was set at January 5, 2024, where it remained for the duration of Purchase Order C03C5A. These two dates were only 44 days apart, which did not meet the 60-day requirement.

**Recommendation:**

We recommend the Division work with PRP and Site Managers to review required timeframes and ensure time requirements are met.

**Management Response:**

PRP provided training on timeframes for invoicing, complying with timeframes listed in the PO Scope of Work, and PO end dates in the October 17, 2024, Program Teleconference and followed up with distributing meeting notes to all site managers. In addition, Local Program Managers were reminded of these timeframes and requirements during the October 17, 2024, PRP Managers Meeting.

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**STATEMENT OF ACCORDANCE**

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**Statement of Accordance**

The Mission of the OIG is to promote accountability, integrity, and efficiency by providing quality audits, investigations, management reviews, and technical assistance.

This work product was prepared pursuant to § 20.055, Florida Statutes, in accordance with the *Principles and Standards for Offices of Inspectors General* as published by the Association of Inspectors General and the *International Standards for the Professional Practice of Internal Auditing*, as published by the Institute of Internal Auditors, Inc. The audit was conducted by Shelby Bremigan and supervised by Susan Cureton.

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